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## Legislative Assembly of Ontario

Second session, 35th Parliament

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 21 April 1992

# Journal des débats (Hansard)

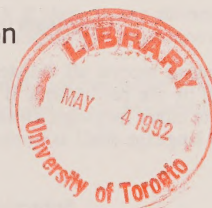
Le mardi 21 avril 1992

## Standing committee on social development

Organization

## Comité permanent des affaires sociales

Organisation



Chair: Charles Beer  
Clerk: Lynn Mellor

Président : Charles Beer  
Greffière : Lynn Mellor

Published by the Legislative Assembly of Ontario  
Editor of Debates: Don Cameron



Publié par l'Assemblée législative de l'Ontario  
Éditeur des débats : Don Cameron



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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 21 April 1992

The committee met at 1533 in room 151.

### ELECTION OF CHAIR

**Clerk pro tem (Mr Franco Carrozza):** Honourable members, it is my duty to call upon you to elect a Chair. Could I have a nomination, please.

**Mr Hans Daigeler (Nepean):** I would like to move the name of Charles Beer as Chairman of the committee.

**Clerk pro tem:** Mr Daigeler moves that Mr Charles Beer take the chair. Any other nominations? There being no other nominations, I call upon Mr Beer to take the chair as elected Chairman.

**The Chair (Mr Charles Beer):** Thank you to the members of the committee for my selection as Chair. I would like at this time to note the presence of the former Chair of the committee, Mrs Caplan, the member for Oriole, and, if I might on behalf of everybody, thank her for her chairpersonship. Is that the correct way one phrases it?

**Mrs Yvonne O'Neill (Ottawa-Rideau):** Effective chairing.

**The Chair:** Effective chairing. Thank you. I thank her for all her work. I will try to live up to the high standard she set.

### ELECTION OF VICE-CHAIR

**The Chair:** Now it is my duty to call for nominations for the position of Vice-Chair.

**Mrs O'Neill:** I have a nomination: Mr Hans Daigeler.

**The Chair:** Mr Daigeler is nominated by Mrs O'Neill, the member for Ottawa-Rideau, to be the Vice-Chair. Are there any other nominations? Going once, twice, thrice. Mr Daigeler is the Vice-Chair of the committee.

### BUSINESS SUBCOMMITTEE

**The Chair:** At this point we need to create the subcommittee of the committee. I know Ms Fawcett is going to serve on the subcommittee for the Liberal caucus. She is not able to be with us today, but I need a motion. Perhaps Mrs Caplan would be good enough to create the subcommittee, if she would do that.

**Mrs Caplan:** Yes, I'm subbing today for Ms Fawcett, who has agreed on behalf of our caucus. I would move the establishment of the subcommittee and, if appropriate, point out that Ms Fawcett, the member for Northumberland, will be representing the Liberal caucus.

**The Chair:** For the record, I wonder if you could read out the formal words.

**Mrs Caplan:** I would be happy to.

"On motion by Ms Caplan, member for Oriole, it was agreed that the Chair and a member from each caucus on the committee serve as members of a subcommittee, pursuant to standing orders 121 and 123."

Motion agreed to.

**The Chair:** As I mentioned, the member for Northumberland is serving on the subcommittee for the Liberal caucus. Who would be the representative from the Conservative caucus?

**Mr Jim Wilson (Simcoe West):** Ms Witmer.

**The Chair:** Ms Witmer, the member for Waterloo North.

**Mrs Irene Mathyssen (Middlesex):** Mr Owens will be the member from the government caucus.

**The Chair:** Mr Owens, the member for Scarborough Centre. Fine.

The clerk informs me that there is no legislation that has been directed to the committee as of this moment. There is left over from the previous session a standing order 123 that was put forward in the name of Ms Fawcett. What I propose at this point is that I meet with members of the subcommittee so we could look at planning our work and in particular to see when we might begin work on the standing order 123 that Ms Fawcett submitted in December.

If that is okay, I ask if there is any further business before the committee. If not, we will reconvene at the call of the Chair.

I ask the members of the subcommittee to stay behind for a brief meeting. Thank you. We're adjourned.

The committee adjourned at 1538.

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### STANDING COMMITTEE ON SOCIAL DEVELOPMENT

**Chair / Président:** Beer, Charles (York North/-Nord L)

**Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

Drainville, Dennis (Victoria-Haliburton ND)

Fawcett, Joan M. (Northumberland L)

Martin, Tony (Sault Ste Marie ND)

Mathysen, Irene (Middlesex ND)

O'Neill, Yvonne (Ottawa-Rideau L)

Owens, Stephen (Scarborough Centre ND)

White, Drummond (Durham Centre ND)

Wilson, Gary (Kingston and The Islands/Kingston et Les +les ND)

Wilson, Jim (Simcoe West/-Ouest PC)

Witmer, Elizabeth (Waterloo North/-Nord PC)

**Substitutions / Membres remplaçants:**

Caplan, Elinor (Oriole, L) for Mrs Fawcett

Frankford, Robert (Scarborough East/-Est, ND) for Mr Martin

Ward, Brad (Brantford ND) for Mr Owens

**Clerk pro tem / Greffier par intérim:** Carrozza, Frank

**Staff / Personnel:** Drummond, Alison, research officer, Legislative Research Service



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ISSN 1180-3274

## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Monday 27 April 1992

### Standing committee on social development

Subcommittee report

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Le lundi 27 avril 1992

### Comité permanent des affaires sociales

Rapport de sous-comité



Chair: Charles Beer  
Clerk: Lynn Mellor

Président : Charles Beer  
Greffière : Lynn Mellor

Published by the Legislative Assembly of Ontario  
Editor of Debates: Don Cameron



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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 27 April 1992

The committee met at 1515 in room 151.

### SUBCOMMITTEE REPORT

**The Chair (Mr Charles Beer):** I recognize a quorum. We are gathered to receive the report of the subcommittee, and what I thought I would do, just so it is in the record, is to read report 1 of the subcommittee. I believe you all have it in front of you but I will read it into the record.

"Your subcommittee on committee business met on Thursday, December 19, 1991, Tuesday, April 21 and Thursday, April 23, 1992, on a matter pursuant to standing order 123 as designated by Joan Fawcett, MPP.

"Impact of the conversion of the Ontario scholarship assistance plan as a loans and grant program to a loans-only program and an examination of alternative student funding strategies such as the Ontario Scholars award and the consequences of all possible changes in areas such as accessibility and affordability to post-secondary education, and the impact of these changes on economic growth, for the time period of 12 hours.'

"The subcommittee recommended that the meetings commence on Monday, May 4, and continue May 5, 11, 12 and 25. It also recommended that key groups be given 30 minutes, and 20 minutes be allotted for other groups. It further recommended: two hours for presentations from the Ministry of Colleges and Universities and the Ministry of Treasury and Economics, simultaneously if possible; seven hours for public hearings from the specified list, allowing some flexibility if necessary; one hour for responses from the ministries, simultaneously if possible; one hour for initial direction to the research officer regarding the committee's report; and one hour for review of final draft of report.

"Proposed agenda:

"Monday 4 May 1992: 3:30 pm, Ministry of Colleges and Universities; 4:30 pm, Ministry of Treasury and Economics; 5:30 pm, Ontario Council of Regents, Mr Richard Johnston, chair.

"Tuesday 5 May 1992: 3:30 pm, Ontario Federation of Students; 4 pm, Council of Ontario Universities; 4:30 pm, Association of Colleges of Applied Arts and Technology of Ontario; 5 pm, Ontario Confederation of University Faculty Associations; 5:30 pm, Advisory Committee on Francophone Affairs.

"Monday 11 May 1992: 3:30 pm, Ontario Community College Presidents' Association; 3:50 pm, Confederation of Ontario University Staff Association; 4:10 pm, Ontario Graduates Association; 4:30 pm, Canadian Organization of Part-Time University Students; 4:50 pm, Canadian Union

of Educational Workers; 5:10 pm, Ontario Council on University Affairs; 5:30 pm, Coalition Against Poverty.

"Tuesday 12 May 1992: 3:30 pm, Alliance for Ontario Universities; 3:50 pm, Mr Chuck Hill, director of student awards, University of Western Ontario; 4:10 pm, Canadian Association for Adult Education for Friends of Ontario Universities; 4:30 pm, Association of Private Vocational Schools in Ontario; 4:50 pm, David A. A. Stager, professor of economics, University of Toronto; 5:10 pm, Rod Fraser, vice-principal, Queen's University; 5:30 pm, Stuart L. Smith, MD.

"Monday 25 May 1992: 3:30 pm, response from the Ministry of Colleges and Universities; 4 pm, response from the Ministry of Treasury of Economics; 4:30 pm, direction to the research officer regarding the committee's report (one hour)."

It is noted that the review of final draft report will be one hour, date to be announced.

This of course is subject to change, depending on whether these groups can all appear at the times we've set out. That is what was discussed by the subcommittee, and can I ask the clerk if I may deem that this be adopted? Mr Daigeler? Thank you. All in favour? All opposed? It is deemed.

**Mr Drummond White (Durham Centre):** It's automatically deemed, is it not?

**The Chair:** Yes. I'm learning on the job. If there is no further business before the committee—

**Mr Hans Daigeler (Nepean):** Do we have any indication yet in terms of the people being able to participate?

**The Chair:** I believe May 4 and May 5 are now set; people have been approached. The clerk will now go on and deal with the group for May 11 and subsequent.

**Mr Daigeler:** So for next week it's as planned?

**The Chair:** Yes.

**Clerk of the Committee (Ms Lynn Mellor):** At this point the ministries are speaking among themselves as to whether they're going to make individual appearances or a joint appearance for the two hours. That's the only thing at this point, but there will still be the same players.

**The Chair:** We had suggested they might take better advantage of the time by doing it together. Okay? So we'll meet again in thunder, lightning and in rain after routine proceedings next Monday.

**Mr Daigeler:** After the budget?

**The Chair:** Yes. If there are no further questions, this meeting is adjourned.

The committee adjourned at 1521.

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Monday 27 April 1992

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### STANDING COMMITTEE ON SOCIAL DEVELOPMENT

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**Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)\*  
Drainville, Dennis (Victoria-Haliburton ND)  
Fawcett, Joan M. (Northumberland L)\*  
Martin, Tony (Sault Ste Marie ND)  
Mathysen, Irene (Middlesex ND)  
O'Neill, Yvonne (Mrs) (Ottawa-Rideau L)  
Owens, Stephen (Scarborough Centre ND)\*  
White, Drummond (Durham Centre ND)\*  
Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)  
Wilson, Jim (Simcoe West/-Ouest PC)  
Witmer, Elizabeth (Waterloo North/-Nord PC)

**Clerk / Greffière:** Mellor, Lynn

\* in attendance / présents





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ISSN 1180-3274

## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Monday 4 May 1992

**Standing committee on  
social development**

Student assistance

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Lundi 4 mai 1992

**Comité permanent des  
affaires sociales**

Aide financière pour les étudiants



Chair: Charles Beer  
Clerk: Lynn Mellor

Président : Charles Beer  
Greffière : Lynn Mellor

Published by the Legislative Assembly of Ontario  
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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 4 May 1992

The committee met at 1603 in room 151.

### STUDENT ASSISTANCE

Consideration of the designated matter pursuant to standing order 123, relating to student assistance.

**The Chair (Mr Charles Beer):** We are going to be considering, under standing order 123, the following motion that was moved by Mrs Fawcett, the MPP for Northumberland. For the benefit of people who are watching on television, I'll just read that motion into the record:

"Impact of the conversion of the Ontario scholarship assistance plan as a loans and grant program to a loans-only program and an examination of alternative student funding strategies such as the Ontario scholars award and the consequences of all possible changes in areas such as accessibility and affordability to post-secondary education and the impact of these changes on economic growth for the time period of 12 hours."

That is what we're beginning today. I wonder if I might ask our first witnesses to come—yes?

**Mr Hans Daigeler (Nepean):** Before we do that, could I ask something of the clerk perhaps, and of you as well? I received a letter, and I presume the clerk as well. I don't know whether you, Mr Chairman, got this from Wolf-Dieter Klaus, the chairman of the Ontario Association of Student Financial Aid Administrators. He was wondering whether his group could still make a presentation. I saw that we have one financial aid officer actually coming. I wonder whether perhaps they can come together or whether some arrangement already has been made. I think it would be very useful to hear from this group. I wasn't aware that they had an association as such.

**The Chair:** I would note that from the original list of witnesses that had been put together there are a few who, for one reason or another, are not going to be able to come, so one of the questions I was going to raise with the subcommittee was, are there some other groups, since we've started this process, that are interested in participating so that if the committee wished to we would be able to do that? I haven't seen that letter.

**Clerk of the Committee (Ms Lynn Mellor):** He's declined. He has made arrangements for May 12. You have the full agenda there to appear with the Association of Colleges of Applied Arts and Technology of Ontario.

**The Chair:** On May 12.

**Clerk of the Committee:** May 12 at 3:30. He's making a direct presentation with them.

**Mr Daigeler:** Oh, I see. Okay, that's fine.

**Mr Drummond White (Durham Centre):** The chap who wanted to present—

**The Chair:** Was there.

**Mr White:** —was already on the agenda.

**The Chair:** It just shows how quickly committee moves. I would just note—and I'll raise this with each of the whips—that there have been a couple of organizations that for one reason or another are not able to come. We might want to just think if there is another one.

**Mr Tony Martin (Sault Ste Marie):** I would like to say right off the bat, in light of the very valuable exercise this is, I think, and the information we can glean and the discussion we can have around this topic, as whip on this side I have no difficulty considering others who might present themselves if we have the time so that we might hear their perspective or view or the direction they feel we might go on this.

**The Chair:** Fine. I'll touch base with the subcommittee members tomorrow on that.

### MINISTRY OF COLLEGES AND UNIVERSITIES

**The Chair:** If we could proceed, I call Mr Bernard Shapiro, the Deputy Minister of Colleges and Universities, and Ms Jan Donio, assistant deputy minister for student support and corporate services. I want to welcome you both to the committee. I think, as you're aware, we had set aside one hour. We do in fact have an hour and a half. I'm not saying that we have to keep you here for all that time, but if the questions remain fulsome and if you're agreeable, perhaps we might go anywhere between 5 and 5:30, at which time our next witness will appear.

**Dr Bernard Shapiro:** Certainly, Mr Chairman, we'd be quite agreeable to stay as long as there are questions we may want to pursue.

**The Chair:** Fine. Perhaps the best thing, then, Dr Shapiro, is to ask you to begin. I think, as you're aware, our object here is to look at the program and meet and talk with others—students, administrators—but we felt it would be particularly useful, at the beginning of the committee hearings, to hear from you and get an overview of just how the program functions.

**Dr Shapiro:** Thank you very much. I certainly am very appreciative of the opportunity to be able to come and speak with the committee. I look forward as well to learning from the committee, not only today but in terms of the report that will eventually emerge as a result of your own deliberations.

All that I'm going to try to do this afternoon is to present a brief overview of the Ontario student assistance program, information regarding different types of student loan programs and an update on the program review which has currently been under way and has been for the last several months.

Throughout my own presentation I'll be referring to the current program as the OSAP program, which is an acronym. It seems to be the one we use, the students use



and the schools use and so I will use it here as well. I hope you'll forgive me for that shorthand way of referring to what it is we're discussing when we talk about that government program which provides financial assistance to needy post-secondary students.

I circulated to you just a few minutes ago some information, a sort of little package which contains some preliminary data the ministry has gathered and which I hope will be of use to you throughout our discussions this afternoon. You may find it useful in future afternoons as well. If you should find that there are some kinds of information you don't have but would like to have, please don't hesitate to have the clerk get in touch with us. We'd be glad to provide it on an ongoing basis.

Although I'm supposed never to begin by apologizing, I will. I should point out that there is no page 18 in the package you've just had. It is not a missing page; it's the numbering that's incorrect. There's nothing missing in the package; it's just that there is no number 18; you go from 17 to 19. Don't spend a lot of time looking for the other page. It was just a numbering mistake.

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**The Chair:** Committee members are not necessarily strong in mathematics, so we appreciate that.

**Dr Shapiro:** Before I go to the program itself, I'd like to clarify at least a term which appears in the question and in the motion being put forward but which is not part of the current program, and that term is "scholarship." In the post-secondary community, scholarships are usually seen as financial awards provided to students based on academic achievement. Although the province does have a small—at least small relatively speaking—graduate scholarship program, it is my understanding that it is not this program which prompted the question and therefore it is not the Ontario graduate scholarship program you wish to discuss. I would certainly be glad to discuss it with you at a future time, if you'd like. I don't mind that. It's just that I hadn't thought that was the focus of the question, so I will be discussing what we refer to as the OSAP program, which provides financial assistance to post-secondary students based on financial need as opposed to relative accomplishment.

The OSAP program is comprised of repayable assistance in the form of loans—with loans you get something you have to pay back—and non-repayable assistance provided to students as a grant. This program is a mechanism used by the province to assist its residents in pursuing a post-secondary education by providing funds to students who would otherwise be financially unable to pursue their studies.

With respect to the material at hand, the package I've handed out, you can refer to it and I will refer to it as I go through my presentation this afternoon. In addition to a brief overview of the current OSAP program, I will be discussing issues related to program demand—that is, the demand on the program for resources—and issues about the OSAP review that's currently under way in the ministry. There is some material as well on interprovincial comparisons which might be of interest to you, and finally, some

very preliminary kind of material on income-contingent loan repayment, which is part of one of the alternatives both we are considering and in which some interest was expressed in the motion that was brought forward.

Let me go first to a kind of overview of the current program. The current OSAP program is in fact about 13 years old. It was established in 1979, bringing together the federal Canada student loan program with a provincial loan program and a provincial grant program. It was decided at that time to provide grants to the most financially needy students and students from less needy but still needy—those terms are all comparative, of course. Students from less needy families would be allowed to access loan assistance, either in addition, depending on the case, or instead of.

The program is based on the concept, to put it in perhaps a slightly oversimplified way, that the costs of post-secondary education are to be made up of three different components. There are contributions by the family, contributions by the student and OSAP assistance. So there are the three things that come together to provide for the full cost of post-secondary education. The equation, as I suggested, is simple, perhaps a little oversimple. Parents and students are expected to contribute towards allowable post-secondary costs, and if their contributions do not equal the allowable costs, then the government will contribute in the form of grants and/or loans.

The cost side of the equation includes tuition fees, books, equipment, transportation, personal and living costs. In 1987, about five years ago, these costs were expanded to include child care costs as well. All of these costs have a maximum which is allowable. For example, tuition fees are set at the current rates, whatever the current tuition rate is, while equipment and books are covered to a maximum of \$800. That's I think an interesting example to use, because I think it's probably the case, although we don't have a lot of very good data on this matter, that in some cases at least, the allowable costs don't equal the actual costs. In some cases they are less, as it turns out, but in some cases that take equipment and books, if you thought of medicine or engineering or fine arts, the allowable costs probably are not as great as the actual costs incurred by the student.

A formula was developed to assess what parents should contribute based on income and how much students should contribute based on summer earnings. There was a separate formula for married students and yet another formula for mature students who had worked for a significant time period before returning to post-secondary education. However, these last two groups—that is, the mature students and the married students—comprised an insignificant number of students at the time the program was developed some 13 years ago, which resulted in OSAP policies being designed mostly for students living at home with their parents and attending university or college immediately after completing high school.

In the last decade there has of course been considerable change in this regard, and although the majority of students are still what might be called the traditional type, with each passing year greater numbers of non-traditional

students are seeking access to the post-secondary system. In order to meet the needs of these students, OSAP has been modified each year, never a big change at any one time and never really a basic conceptual rethinking of the program, but for example, it now includes such features as a special assessment for sole-support parents and appeal opportunities for students facing family situations that are in conflict or family situations in which violence enters into the experience of the student.

There are other aspects of the program that we might mention just by way of beginning. It was designed to allow access to grant assistance only for the first degree, at which time it was assumed students proceeding to graduate studies would access only loan assistance. For all practical purposes, the grant program is available only to undergraduate students, either at the college or the university.

That's a distinction I might make, because I've found in a number of the discussions we've had in a variety of committees that have been rethinking OSAP over the past year that it's always discussed in terms of university students, and as you'll see in the data that are attached to this material, the program is of course for college and university students. In some ways, although college students often benefit less in terms of dollars because their programs are shorter, they're proportionately greater users of the system than are university students because their relative need is usually greater.

The package you have in front of you contains a brief overview of the program, which has had a few minor changes but is still basically the same as that program designed some 13 or 14 years ago. You might want—as I go through, I'll try to refer to page numbers where appropriate—to take a look at some of the information there.

On the very first page, the main point is that the assistance is needs-based. Data from our program files reveal that this is as true today as it was in the earlier years of the program. Grant assistance is provided using more restricted criteria than loan criteria, and still today over 75% of grant assistance is provided to students who come from families with incomes below \$35,000. Students from these income levels will also qualify for loans, depending on their allowable costs. On the other hand, a student from a family with an annual income of \$50,000 would access only a Canada student loan of just over \$1,000, depending, again, on the cost to that particular student in that particular program.

The grant-first policy is provincial government funding provided in the form of grants to the most needy students. The original intent of the policy was to ensure that high debt loads did not stop lower-income students from pursuing post-secondary study. In terms of the data we have relative to the interprovincial comparisons, this has turned out to be the case; that is, the average debt load of the student leaving the OSAP system is around \$13,000. That is quite low relative to interprovincial comparisons, simply because we have the grant-first program and loan later, whereas almost all the other provinces, I think—in fact all of the others; I may not be entirely correct—have a loan-first program, grant later.

Loan assistance is comprised of both federal and provincial loans. The federal program is called the Canada student loan program, which may be supplemented by the Ontario student loan program. It is important to remember that the federal loan program is only administered by the province and that the policies are determined by the federal government. Both federal and provincial loan assistance is guaranteed, which means that should the student not repay the loan assistance, the governments pay the bank the amounts outstanding. The governments also pay the interest to the banks while the student is in school and up to six months after the studies are completed.

These loans are to be repaid by students by fairly conventional methods. Six months after study is concluded, all student loans are consolidated. Repayment is amortized for a maximum of 10 years and paid in monthly instalments. Should a student default on payments at any time during the repayment period, the federal government pays the bank the outstanding Canada student loan amount and the provincial government repays the outstanding Ontario student loan amount.

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It might be noted that annually, students default on provincial loans on 2% to 3% of the loan portfolio. This is, for a variety of reasons, not all of which are terribly clear, about one quarter the federal default rate and comparable, at least to our understanding, to the market rate loan default.

Perhaps if you would like to take a look at pages 3 and 4 in the attached material, we could talk a little bit about current program demand. The first chart in this section, on page 3, highlights the growth in demand for assistance under this program over the past four years, as well as the growth in the number of applications.

Also provided on page 4 is recent historical data on program utilization. It will give you some idea of which programs are being used, how much money is being spent on each program and how that has changed over the past several years. You will notice that just over 80,000 students received grant assistance and over 132,000 received some type of loan assistance. Given that many of these students received both types of assistance, the total number of students receiving assistance was just over 155,000 this past year.

It should be noted, as you see the increases in the amount being spent over the past year or two, that no one group of students has been receiving significantly more money during that time period. It is simply that more students require assistance. In fact, compared with 1989-90, about 40,000 more students accessed assistance in the past year.

Research has demonstrated that unemployment rates turn out to be one of the best indicators for OSAP utilization. I don't want to say one of these things causes the other, which is a more complex question, but nevertheless it appears that for every 1% increase in the unemployment rate, we have an approximately 1.5% increase in the number of applications for OSAP.

You might notice the subsequent pages. I won't be referring to them individually until we get to the end.



We've tried to provide information in both graphic and tabular form on the same page, so the information at the bottom of the page is the same information contained in the graph. I did it for two reasons. One is that some people like to look at graphs and other people like to look at tables, and the other is that our reproduction facilities left something to be desired and not all the graphs are all that easy to read. So between the two, you should be able to access the information.

Although demand is up and the budget, of course, is in a sense bursting at the seams, OSAP is still a program that is significantly criticized for not providing enough students with adequate funding. Therefore, in the spring of 1991 a review of the program was announced to identify program problems and determine enhancements which might make it more effective.

The consultation process of the review determined, or at least settled on, several major issues within OSAP that the consultation group felt needed changing; for example, the possibility that grant funding might not be limited to the first eight semesters, which is the current situation, as I indicated before. As you might imagine, the notion is that it seems hardly consistent with the notion of lifelong learning, because if we really mean it about lifelong learning, what are we doing limiting grant assistance to the first eight semesters?

There was also a lot of concern, just for example—I'm not going to try to go through them all this afternoon—over the residency and dependency criteria, which often tie students to their parents well into their late 20s and are seen as completely unreasonable given the context in which most young people live out their lives at the current time.

However, each of these issues and the array of other program concerns that were identified are of course expensive to change within the current program and budget parameters. The changes are especially expensive in a grant program, where every dollar of additional assistance costs a dollar, while a dollar in loan assistance costs only approximately 40 cents, taking interest and loan defaults into account.

The OSAP review that commenced in April 1991 became part of a program reallocation review of the government in the fall of 1991. In 1991 the government launched a general review of all its large spending programs in preparation for the upcoming budget, and OSAP was simply one of the programs that was considered along with all the others.

Therefore, we found ourselves in a somewhat different situation than we began with in terms of the review. We now found it necessary not only to find program enhancements and to figure out how the program could be better organized, but to ensure that the program, which was growing at an unprecedented rate, was also fiscally viable in terms of the resources that might be made available to it.

Throughout the review process, which continues of course at the moment, the ministry has been testing and researching a wide variety of program alternatives to assess financial feasibility and program implications. Many of these alternatives require different amounts and/or types of loan assistance to students.

I might move on, then, to talk, at least briefly, about loan assistance. Before I cover any sort of somewhat more detailed information, I'd like to take a moment and highlight the different principles which might underlie a student loan program. If you look in the package on page 16, you'll find some background material relative to this issue.

First, you will notice an interprovincial comparison of loan debts. As I've already referred to, as you can see, the average amount owing varies among the provinces and is based on the type of provincial student and aid program offered. Ontario is the only province which allows students to access provincial grant money before receiving loan assistance, which is why our loan debt average is low in comparison to other jurisdictions.

You may note that Quebec also has low debt levels, which is mainly due to the fact that Quebec has a special relationship with the Canada student loan program that allows Quebec to access the assistance but deliver it as its own program, not abiding by federal policies or parameters for the Canada student loan program. This really is quite interesting because the legislation under which this is made possible through the Canada student loan program theoretically makes the alternative payment scheme Quebec has accessed—so has the Northwest Territories, as another example—available to any province which decides to access it. We have spent quite some time during this past year working with and talking to our federal colleagues, suggesting that we might like to access it ourselves, and rather than deal with the federal program, just access our share of the funds and administer an entirely provincial program.

I have the sense—but it's only my sense; I don't want to pretend it's more than that—that Ontario, having raised that issue, has caused the government, the federal government in this case, to decide that it may want to change the rules of the game, because if both Quebec and Ontario opt out of the program, the viability of the program as a national program gets a bit awkward. Anyway, what they've suggested to us is that they're reviewing the program and may change the rules. That's something whose outcome we will await.

The reason of course that Quebec's access to the funds makes it possible for it to have a lower student debt load is that once it has the funds it can give them either as grant or loan, depending on what the preference is of the government of the time.

The type of loan program offered through the Canada student loan program and all provincial loan programs is what I would refer to as a conventional loan program, where loans are provided based on financial need. Loans are provided based on current financial situation, considering assets, income, liabilities etc to determine if the family could access a market-rate loan from a lending institution. Students from families who could not access market-rate loans from lending institutions are provided with government-subsidized loans that require the student to negotiate a loan with the bank which the government guarantees. The government pays the interest while the student is in school and until six months after completion.

There is more detailed information in your package about these types of loans. As well, there is an amortization



chart on page 20 which shows monthly payments for certain loan amounts amortized over a 10-year period with an interest rate of 10%. Obviously it would be different depending on the interest rate and the amortization period you chose to use. You may wish also to note that both the federal government and the province have an interest-relief program which will pay the interest on the loan for an additional 18-month period if the student is unemployed or has a very low income level.

Another type of student loan, which we certainly do not have in the province at the moment—I know David Stager will be here to talk to you about this kind of loan; I think it's some time next week, although I'm not sure of the date—is of course the income-contingent loan. Income-contingent loans are seen more as an investment where students are provided with the assistance required and repay it based on their income after graduation. There is not a needs test. Students who request the assistance are provided with it and will repay it based on their earnings upon completion of study.

Given that the data demonstrate that university and college students do tend to earn more than those who do not pursue post-secondary study, it is perceived or believed that the investment in education will likely place them in income brackets where their borrowed money can be repaid using a very low percentage of their income, usually spread over a longer time period, such as 25 years.

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In designing such a system—there are not many actually in use—it is usually envisioned that repayment would be facilitated through the taxation system. So if one thought about it for Ontario and one wanted to pursue that, one would presumably hope you could manage the repayment through the federal income tax system, as that's obviously a system set up which people use each year, and then it would be possible to track people who moved to different places in Canada and do a whole variety of other things, rather than mount an entirely separate administrative system for that purpose.

Australia has recently introduced an income-contingent model which covers tuition fees. The program is designed so that all students may access the loans for tuition fees; however, there is an option to pay the tuition fees without the loans if you so wish. It's a very new program—I think it was introduced about two years ago—so it's difficult to know what the full implications or effectiveness of the program would be at this point in time. In Australia, it's a federal program. The other student assistance programs in Australia tend to be state programs, but this is a federal program, and it's limited to tuition fees.

The Smith report, the recent report Stuart Smith did on university education in Canada, also spoke about the income-contingent model and the need to move student financial assistance in this direction. Recent reports from the Council of Ontario Universities, which did a study which the ministry sponsored, and from Queen's University have suggested exactly the same thing, so I think it's a topic that's likely to come up repeatedly as we try to go to a redesign of OSAP.

There is a very brief overview of the income-contingent notion in your package, and, as I said earlier, you'll probably be hearing a lot more about it from various groups that come to the committee in the next days and weeks. One also needs to understand that, like any other model, the income-contingent model is capable of many, many variations. There are different models of it, different ways in which you can imagine repayment occurring; for example, I've seen some schemes which suggest that students in very high income brackets ought to pay back not only what they borrowed but more, so as to help subsidize students from lower income brackets; there are all kinds of variations one can imagine. But the general idea behind income-contingent loans is that each generation finances its own post-secondary education; each student, to the extent that he or she incurs a cost not subsidized by the government, pays his or her own way depending on capacity to pay in terms of later income.

Of course, the review of OSAP is ongoing and the ministry is currently considering a wide variety of options. Alternative loan programs which consider changing amortization periods, gearing repayment to income and accessing the federal assistance differently are all part of the review process that's currently under way.

One of the keys, of course, to an effective student loan program seems to be debt-load management. It seems vital to ensure that the amount of debt does not deter low-income students from pursuing post-secondary education. Second, the debt load needs to be appropriately amortized so that students just commencing their working life will be able to meet their monthly repayment obligations. Third, it appears that there needs to be a repayment relief program to help students who during their repayment are unable, due to financial circumstances, to meet the monthly obligations.

Of course, there is another option if one really doesn't want to have to deal with some of the complexities of debt management, and that is to make sure no one incurs any debt. That is one of the options the ministry will need to consider and has been considering: moving off the loan program altogether to an all-grant program. As you can imagine, it's a very expensive option for any government that might be in power, but nevertheless it will be one of the options we consider as we try to put together a program that will best serve the needs of the province and its students and at the same time still be manageable in terms of the resources the government is able to make available.

It's an incredibly interesting problem; it's a complicated problem, but that's what makes it particularly interesting. In that sense, I really look forward to the committee's report, because I think it should be of considerable help to us as we try to think of the alternatives that might be available to the government for assisting students and providing access to the post-secondary institutions.

This might be an appropriate place for me to stop. I've probably gone on long enough in terms of the general introduction to the program, and I'd certainly be glad to answer any questions I can. If I can't answer the questions and if my colleague's also unable to answer the questions,

we'll certainly try to do better for you in the days immediately ahead.

**The Chair:** Thank you very much, Dr Shapiro. I should note for those who are looking at the clock on the wall that it is still operating on another time zone. It is now approximately 25 to 5.

Just before going to questions, could I ask what the time frame is for your review, or is there one?

**Dr Shapiro:** We have been asked to return to treasury board in the fall, in September of this year, with a report outlining options and recommendations for change. The expectation is that the changes agreed to, if any are agreed to, would be effective for the following school year, that is, for 1993-94.

**The Chair:** Thank you. I have a number of people who've indicated they'd like to ask questions. We'll begin with Mr White.

**Mr White:** How much time do we have?

**The Chair:** We have until 5:30. For everyone on the committee, I propose to rotate, if that's the way the questions go, but otherwise I'll just go to whomever has a question.

**Mr White:** I have a couple of interlinked questions. I'm glad you combined the graphs and charts so those of us who are differentially abled could get an understanding of these issues. There's one question I wanted to ask first off. I notice in terms of the age of the OSAP recipients that over the period of some seven years, that age has gotten much older. The other thing I was struck with is that at the same time the proportion of married recipients is larger, and that while we had 52 male to 48 female in the past, now it's 58 female to 42 male. So there's been a shift, a very marked shift, I would suggest, in the composition of that group.

I'm struggling a little, because I know that student loans—OSAP, CSL—have always been thought of as being something one gets into as a young person, a 19-year-old, an 18-year-old, and then you graduate when you're 21, bright-eyed and bushy-tailed, with a BA and then you pay back your student loan over some 10, 20, 30 years.

But as I look at this, it seems as if we are dealing with a different population in colleges and universities than we were 10 years ago or seven years ago, we're dealing with an older population, even though the student loans program really is based on a formula of whether your father can afford to pay for you. At my age, I'm not quite sure it's a really viable question. I remember returning to university in Ms Witmer's riding when I was around 30. Obviously, the capacity of my family to support me was largely irrelevant when I had my own family. I'm wondering if the nature of the system is going to be changed to reflect that changing group.

**Dr Shapiro:** That, of course, remains to be seen, as to which changes get made, but that is certainly one of the issues uppermost in our mind, because the nature of the population is changing. It's changing slowly, but it is changing, on exactly the lines you suggested and other lines as well, because the population inside the colleges and universities, however much it remains, relatively

speaking, a middle-class or upper-middle-class environment, is becoming less so both in terms of socioeconomic status and also in terms of other kinds of characteristics. Not only are there more women; there are more disabled students, there are more students representing various kinds of racial and ethnic groups than there were. This remains a problem for us; they're not accessing in proportion to their representation in the population, certainly, but the population is becoming very much more heterogeneous.

That introduces not only problems of age but also problems of attitude in terms of how it is you perceive, for example, the accumulation of debt. People perceive this differently even though it's the same amount they may be talking about, even though they may have the same opportunities for repayment in the future.

My own sense of it is that the most sensitive part of this change has to do with the dependency criteria; that is, the most difficult part will be to ask ourselves to what extent and to what time should we assume that parents have an obligation to provide for students pursuing post-secondary education, because, of course, every year there are examples of parents who are clearly able to assist but who do not, and we have to provide special appeal procedures for that. This is not an easy or comfortable experience for many students to go through. That is the area I find most problematic at present, and the one we've got to pay the closest attention to.

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In terms of age and the repayment of a loan, that has not thus far turned out to be a really significant problem. Although the age is going up, the age at graduation tends still, when we're talking about the first four years, at least, or the first two or three if it's a college program, not to be a really significant matter. If one expanded at some point in the future OSAP so that it dealt with all kinds of education and training opportunities that occur later in life, whether or not they are formal degree or formal diploma programs of one kind or another, then that would become a much more significant matter than it is at the moment.

**Mr White:** Along those same lines, again with the issue of family dependency, my experience on a number of occasions, having worked in the past as a family counsellor—I have assisted many families that have broken up, frankly, where the children were living on their own even as adolescents and had been securing assistance. I have had difficulties on innumerable occasions with the OSAP office, of people being turned down because they had families, and those families, because of conflict, would refuse to acknowledge the fact that their children had been on their own for years; and of course the opposite, which we are all familiar with, which is the fairly wealthy person whose children are receiving assistance or a grant.

If this family dependency issue were removed and there were not a grant component with those two things, do you think there would be problems engendered?

**Dr Shapiro:** Certainly it would eliminate some of the problems you've described, so some issues would be resolved by taking that process and going, for example, to a



program which didn't consider family obligations at all. If it were considered that that is no longer appropriate in the current social context in which we exist and in which you had no grant, the incentive to abuse the program would be drastically reduced and people who had wouldn't have to, in a sense, enter into a process of establishing the presence or lack of financial support from families.

What would have to be managed in that kind of model would be the debt load of students. We would have to think carefully about whether that were appropriate and how we felt about it, but I think it's a viable option.

**Mr Daigeler:** Mr Chairman, let me first ask you or perhaps the clerk, will the minister appear before the committee as well? Is there any plan for that?

**The Chair:** We have scheduled time for the ministry to appear again at the end of the hearings. Certainly the committee could request the minister to come, but at present it's simply a block of time at the end of our hearings where there is provision for another visit by the ministry.

**Mr Daigeler:** It's the first standing order 123 session that I'm attending, so I presume there's no precise precedent.

**The Chair:** There's no obligation, no. It varies from—

**Mr Daigeler:** But probably there's a desire.

**The Chair:** Certainly the committee is free to indicate its—

**Mr Daigeler:** Then I simply indicate my desire that the minister will come at least at one point, be it at the beginning or at the end, because there are certainly a number of issues that relate to policy which I'm sure the deputy minister would hesitate to get into and be very careful not to trespass across that sometimes very fine line.

I don't want to put him on the spot, but he did put one approach to OSAP at the very end of his remarks, indicating it as a possible option, and that's the one where we move to a grants-only program. The way the deputy minister presented it was as an option that is rather far removed.

I would just like to remind the committee, and that's why it would be good if the minister were there, that the most recent—at least that I have—policy statement prepared for the party of the current government states as a long-term goal of the New Democratic Party "to replace the present student assistance program with one that is based on an all-grants system." I am just wondering whether the minister and perhaps the gentlemen and the lady who are on the other side of the committee are still staying with that particular policy.

**Mr Martin:** On a point of order, Mr Chairman: Would the member be willing to share with us where it comes from?

**Mr Daigeler:** Oh, very much so. I would have hoped that perhaps the members of the committee would have that as part of their briefing. It was prepared at the time by the critic for the NDP, which of course at the time was in opposition. It's dated January 23, 1986. It was a press release by Marion Bryden at the time. It spells out in great detail, frankly, the expectations then of the NDP. As I indi-

cated, that long-term goal of turning to a grants-only program is mentioned.

**Mr White:** On a point of order, Mr Chairman: Mr Daigeler mentioned that this is his first 123 hearing. He probably would like to be informed that 123 hearings are time-limited. While we have a witness in front of us we should probably spend that time with the witness, because we have only 12 hours.

**Mr Daigeler:** Mr Chairman, I don't particularly appreciate that intervention. I think the purpose of the 123 hearings is above all to give the opposition members an opportunity to review matters that are of some substance. I consider the policy orientation of the current government of very great significance and I regret that the minister, at least so far, has not taken the effort to come and present his policies.

I think it is significant and important to have the deputy minister here to present us the ideas and studies that have been done, but at the same time we must not overlook the fact that it is the policies that drive the administration and not the other way around. So at one point I hope I will get an opportunity to hear from the minister what his policy goals are for the whole review. The review, as the deputy minister has said, is still under way, and we are very much looking forward to hearing what the minister is planning to do with this particular review.

I would like to ask of the deputy minister at this point: You indicated the various approaches across the provinces to OSAP, and I thought that was very helpful because I was not really that familiar with the approaches. What would be your explanation? Would you consider it a positive step? Why would we want to take over the whole OSAP administration in the way Quebec is doing? Do you see an advantage for the Ontario students in moving in this direction, and if not, what would be some of the disadvantages? What would be your response to this?

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**Dr Shapiro:** Initially we had two ideas in mind in terms of trying to access the alternative payment scheme under the Canada student loan program. One was that because we were a grant-first program, under the Canada student loan formula Ontario was not accessing its share of the total Canada student loan pot. So some of our share of that pot was going to other provinces because of the way in which our program was being administered, because we had grant first rather than loan first.

One thing we wanted to do was simply to access more of that money so we could give out more assistance to students. The other advantage for doing it would of course be that we could then mould the program to one set of parameters rather than two—that is, when you're operating a double program you never know when the rules of another one are going to change. If you are trying to get them to fit together in a way that would best benefit students, a single administration in a sense and a single set of policies seemed to us more sensible or at least potentially more sensible than a double set would be. So those are the two ideas we had in mind.



Through a number of other changes, in the last year we have been able to begin to access more of what is considered to be our share. As you will notice in the figures you have, the student loan program numbers are going up each year. We have been figuring out different ways in which to mould our program so that we can access what everyone understands is Ontario's share of those dollars. So we have had some success in that.

We've now put aside the other issue of a single program while waiting for the federal government to complete its policy review in terms of how it's going to handle the Canada student loan in the future.

**Mr Daigeler:** Do you have any indication what their time frame is and how seriously they are reviewing this?

**Dr Shapiro:** I believe they're serious about it. I'd hesitate to mention a time frame. Like some of the time frames I myself have experienced in the past three years, they tend to recede into the future as you approach them. I don't mean to be snide about it. I think that things are sometimes more complicated than they appear and developing consensus over how to proceed is not easy. So I don't think it was any lack of effort or interest, but it remains an open question. I don't know when.

**Mr Daigeler:** Do you know whether that's currently one of the issues that's on the table during the constitutional discussions? I guess that would be one of the devolution of powers.

**Dr Shapiro:** I'm not aware of it in that context, but neither am I close to the constitutional discussions. It may be something being discussed, but not to my knowledge.

**Mr Daigeler:** I don't know how you are proceeding.

**The Chair:** Ms Witmer, perhaps at the first round a question and a supplementary, and then we can come back to you, Mr Daigeler.

**Mr Daigeler:** Okay.

**The Chair:** I have Ms Witmer, then Mr Martin and then Ms Fawcett.

**Mrs Elizabeth Witmer (Waterloo North):** Dr Shapiro, I appreciated your presentation. I live in a riding that has two universities and so my office staff is put in the enviable position of dealing with OSAP problems on a regular basis.

We faced one particular problem this year that I am personally quite concerned about. We talk about employment equity and the need to ensure that women in particular and the visible minorities are placed into positions. I've been faced twice this year with females who have one degree from another university outside of Canada and females who have children whom they are responsible for. As you know, at the present time these women are not entitled to support.

Do you see some changes occurring in the future? If we are going to provide the talent pool and make employment equity a reality, this is just one of the barriers that women and women immigrants are facing at the present time. They don't have the financial resources.

**Dr Shapiro:** I think there are two kinds of barriers, and they relate in a sense to two different aspects of the

program. If we are talking about individuals who are pursuing a second degree, they have gone beyond eight semesters of post-secondary study and therefore grant assistance is unavailable to anyone, then that's a question that I referred to earlier and it is under active consideration in the review, whether or not we ought to extend eligibility periods to provide for people who are pursuing an additional degree—very frequently, as you point out, at a point in time quite different from when they pursued their first degree.

Often when these individuals pursued their first degree they were in what is referred to as a traditional age cohort, 18 to 24, something of that sort, and come back to do a second sometimes 10 years later or 15 or 20 years later where the circumstances are very much more complicated. When the program was designed it was thought, "Well, by that time you are a sort of mature, responsible adult and you've managed to conserve resources appropriately so that you can further finance your education."

In a time when families, as someone was referring to earlier, are less intact than they used to be and these situations are less predictable, that may become more problematic than it has been. So that's one matter. We certainly are considering the question of extending eligibility periods.

I think it's only fair to point out that it's not difficult to imagine a large set of enhancements to the OSAP program that would really be of benefit, and I mean that very sincerely. They all do come along with a resource implication, and what you're frequently doing in terms of what the ministry staff, the people we consult with, are trying to imagine is how to use the available resources in the most effective way, which programs are the places of greatest need, which is of course what leads some people to talk about emphasizing loan programs rather than grant programs, because you can make the same basic investment and go farther, in a sense.

The other issue about employment equity groups of one kind or another, of which there are a number, accessing the initial post-secondary experience would be a question of revisiting our formula to see whether or not assistance provided to people in that context is sufficient.

The formulas are reviewed, of course, every year, and that would be one of the things we would think about, so it certainly is possible that we will change it. I hesitate to say it's going to happen, because in the midst of a review is an awkward time to be able to respond to that kind of question.

**Mrs Witmer:** Yes. I guess we talk a lot about employment equity and we talk about establishing quotas and what have you, but I do see one of the barriers to access is the fact that people are not able to access the educational facilities or access the training because of the dollars and as a result we don't even have the talent pool from which to draw, so I hope very serious consideration would be given to these two concerns. As I say, they've certainly been raised several times this year.

**Dr Shapiro:** I do appreciate that and we certainly will consider it carefully. Especially relative to this particular group or the kinds of groups you're referring to, I think there are other aspects of their situations the ministry is

also trying to think through that don't relate to student assistance directly. For example, some people cannot access the institutions not because they can't get to the dollars—that might be a problem—but there also might be a problem of simple physical access, and I don't mean by handicapped students, which is another matter.

**Mrs Witmer:** That's right.

**Dr Shapiro:** If you're a single parent with children, child care is not as easily accessible everywhere as we would like, and just getting physically to the institution can be an issue, especially in rural areas where transportation is not as easily available. In that context we're trying to think about a kind of province-wide expansion of the Contact North network to see whether over a period of time we can't, so to speak, wire the province in such a way as to provide at least additional access to people whose physical capacities, not always because of disability but for all kinds of reasons, simply don't enable them to get to school, so to speak.

**Mr Martin:** Mr Shapiro, it's good that you came today, and I think it's important, as I said before, that we have this discussion around how we provide for our people as they try to get the education they need to participate more fully and positively in our society today. Certainly it seems to me anyway that, as we go on, the whole picture becomes more and more complicated by more and more factors.

My colleague earlier spoke to the fact, and you spoke to it as well, that we're now into a concept of lifelong learning. As a matter of fact, I was at a graduation this weekend where I watched students go across the stage, and the range of age was phenomenal. It was actually rather exciting to see in the community of Sault Ste Marie the number of mature students who are now graduating from college and university, and with that come all kinds of questions around their ability to do that, the affordability, because a lot of them have families and other financial considerations, such as mortgages, that the traditional student didn't have. It brings with it a very serious question of how you afford that, I suppose, that certainly was there before, but I don't think ever quite so poignantly as now.

The review that started in the spring of 1991, which I think reflects the government's attempt to try to get a handle on this: What were the principles upon which that review was based?

1700

**Dr Shapiro:** Let me say a couple of things. I'll answer your question about the review in a minute, but something you said earlier caused me to think of another issue.

I think we should keep in mind that one way of thinking about the whole area is to differentiate between two different kinds of costs. For everybody attending our post-secondary institutions, the government pays most of the cost of the instruction itself. That is, the basic funding to the public colleges and universities covers about 80% of the cost in the university context, and the number is higher in the college context. So everyone is receiving, irrespective of their relative need, a large-scale subsidy.

One could think, for example, of the additional student costs—let's say tuition, just to talk about something relatively straightforward, as something that could be managed under, for example, if we wanted an alternative, let's say the income-contingent loan repayment plan to cover tuition. For the older student the big issue is not the fact that the government covers the main costs of running the institution and some other plan covers the tuition costs. It's the living costs that are really the problem, especially when we remember that at the current time OSAP is not nearly as generous as social assistance. You'll do much better on social assistance than you will on OSAP. That's just a difference that's grown up over time. I don't think anyone intended it, but it's happened as the budgets have simply not been adequate for the demand upon them. So that's one way of thinking about it.

You could have models, as we try to imagine, different methods for handling these different kinds of costs. For example, if we're trying to think of options—and I'm hoping you'll be as stimulating as I'm trying to be so that you can help us—you could imagine an OSAP program that was limited entirely to tuition and school-related expenses like books and things of that sort, after which, if one could not manage whatever one needed in order to live appropriately in our society, we have a social assistance program. That's a whole different way of thinking about it. So there are different models available.

But to answer your question directly, the review has gone through what we consider to be three phases, and we did not foresee that when we began. We didn't begin foreseeing that these three phases would develop. They just have developed, and I'll try to describe them to you and give you some sense of what would be intended in each case.

In the first instance, when we began in April of 1991 the idea was to involve a wide group of stakeholders and identify ways of maximizing accessibility and equity in the financial sense for the post-secondary system. What can we do with OSAP in order to make this a better and more responsive system than it is? At the time, we did emphasize to the stakeholders we put together in a large-scale consultation exercise that there was absolutely no guarantee there would be any more money in the system. There might or there might not be, but we had to think about what we wanted to do in either circumstance and make recommendations. The idea was to try to work with the various groups out there to figure out what the best points of leverage would be, where the change is most necessary, and I must say we were quite impressed by the extent to which the stakeholders involved—whether we're talking about the institutions or the students or the staffs of the various groups we had together—have stuck with that consultation process. It has not been easy because of course their views aren't always consistent with each other, let alone with the developing views inside the ministry, but people have nevertheless stuck with it, which I think says a lot for them and the importance of the program.

It became particularly awkward because, as we began to develop the actual recommendations we might try to consider, hopefully for implementation in the year we



were just about to begin, phase 2 developed not out of the clear blue sky but certainly not in conjunction with the program as we had outlined it. At that time, in September 1991 as I mentioned earlier in my remarks, the government embarked on a budget reallocation exercise in preparation of its own financial planning that involved all the large-scale spending programs of the government—not OSAP in particular; OSAP was just one of them.

So the goal became slightly different. Rather than involve the stakeholders in identifying ways of maximizing financial accessibility and equity, it became a goal of how to develop options in this area in the same way that would result more directly in expenditure containment or possibly even in reduction for OSAP in the 1992-93 year. We were now in a different ball game and we tried to keep these two going together. We didn't try to abandon the first and mount the second. So we developed a whole series of options for treasury board and Cabinet Office to consider. We had continued consultation with the key stakeholders.

As a result of that process, cabinet agreed to make no serious changes in OSAP for 1992-93 and to add an additional \$50 million to the 1991-92 budget to accommodate the increased demand for the program. Of course, we tried to consider a whole series of alternatives that would try to both make the program better and deal with reasonable costs at the same time. That took us through the end of 1991.

At the present time, in 1992, we're in what we consider to be phase 3 of the review, which has as a goal to try to achieve a balance between the equity and accessibility objectives of phase 1 and the fiscal objectives of phase 2. Inside the ministry, again working with a variety of different groups, we're trying to develop new combinations of repayable and nonrepayable assistance, different models of programs that might work. We hope to continue consultation with the key stakeholders and move towards the treasury board submission in September that I mentioned earlier this afternoon, which would provide a series of options from which the government would then make its choice.

I hope that's an answer to your question. If not, I'd be glad to say something more particular.

**Mr Martin:** You've certainly contributed even more than I'd anticipated you would give, and I appreciate that. Given that you've gone through a fairly lengthy review process and various phases to date, are you anywhere close to identifying particular alternatives? You mentioned one in your presentation: a contingency process that was coming out of Australia. Are there any others?

**Dr Shapiro:** I don't think it would be appropriate for me to say what options we may or may not be close to. As Mr Daigeler pointed out, that's a matter that's currently ongoing inside the ministry. What I can say is that it appears to us, as a result of the analysis we've done so far, that any program we bring forward is likely to be a combination program which will involve different kinds of assistance, depending on the situation. We've got all kinds of modules we've developed that you could put together.

For example, you could put together an income-contingent loan repayment for tuition fees and then have grants and/or loan assistance of various kinds for other kinds of costs. In addition to all that, you could have tuition bursaries for especially needy students or for students whom you especially wish to target to bring into the university or college population. It's our sense, as we try to balance both fiscal constraints and the need to provide good access to the system, that some combination of types is likely to characterize most of the options we develop. But we will develop pure models as well, purely a loan or purely a grant or purely something else.

**Mrs Joan M. Fawcett (Northumberland):** It's nice to see you again, Dr Shapiro. Looking at one of the options where there wouldn't be any grants available but strictly loans, it would be your contention then that this area would be opened up. I've had several students call my office, and also working mothers who want to go back, and they're saying, "I don't care if I get a grant; just get me a loan." They really are very adamant about that. I know there's a serious look at that. Other than the horrendous debt that follows the graduate, are there any other downsides you're looking at seriously in not wanting to open up the availability of the loans?

**Dr Shapiro:** The question of the debt load for an all-loans program depends on two things: first, what one believes is a reasonable debt load—one assesses that—and second, what one provides for people whose future income doesn't really make repayment of that reasonable. Our sense of it is that as you go to consider loan programs you must always consider what we call remission programs, which make an exception for people whose circumstances are such as to make loan repayment not very useful from either a social or a personal point of view.

1710

**The Chair:** One is almost tempted to say that we wouldn't be looking at Olympia and York as an example in this.

**Dr Shapiro:** Almost tempted, but not quite.

I think there's another interesting question that makes a large difference in terms of the loan program, and that is the question of whether you're going to have a subsidized loan program, which is generally a program for which you pay the interest while the student is studying, or you have an unsubsidized loan program, in which case the interest simply accumulates as part of increased principal while the student is studying, because that makes a large difference in terms of what the cost of a loan program is going to be.

The actual size of the loan program has no limit beyond the credit of the government, so to speak. Since the government, in all the models we are working with, guarantees the loan, the only question is, how much is the government willing to guarantee and what is the default rate expected to be etc, so you can calculate the cost. But I do agree there are many students, especially, I would say, those who are pursuing programs when they are—not to use words like "older" or "younger"—over 30 who have exactly that point of view and who say, "We just need to



get through the system; we'll be able to manage it later." That's why it's one of the options we've got on our list.

**Mrs Fawcett:** I have one other little question. A number of people have also wondered about athletic scholarships. I understand right now universities cannot offer this, or they choose not to. Of course they are quite readily available in the United States, and a lot of parents of prospective university students are saying, "How come there's not such a thing here?" I am wondering if you know anything about it.

**Dr Shapiro:** When I was the academic vice-president at the University of Western Ontario I had a whole speech on athletic scholarships that I gave on demand. I don't want to repeat that speech here.

The last time I myself considered the issue was at a time when I was a member of the Council of Ontario Universities and the whole issue of athletic scholarships came up, so I'm not really familiar with what the current situation is. What I will do is provide a briefing note for the committee either tomorrow or the next day on the athletic scholarship issue.

**Mrs Fawcett:** I appreciate that. Thank you very much.

**Mrs Witmer:** I'd like to go back to the income-contingent loan program. Has the ministry determined in any way the startup costs of that type of program?

**Dr Shapiro:** We haven't completed our work in that area. We do have the study that was produced, jointly sponsored with the Council of Ontario Universities, which certainly did consider that issue. We've been doing some additional work ourselves, but we're in the middle of that work. It depends partly on the model you adopt. If you adopt the model that provides such a loan up front, let's say for all students, then the cost of the program turns out to be the cost of borrowing what will amount to very large sums of money as the program matured. It would keep on more and more until of course the payback period began, and then it would start to plateau out for you, assuming a roughly stable student population.

We have been pursuing with various private lending institutions the extent to which the private financial sector would be willing to deal with loans on that scale. Thus far we haven't been wildly encouraged by the response. On the other hand, we're in the very early days and so I wouldn't want to say that it might not be quite manageable. There's one cost issue and one logistical issue that need to be resolved: It's the cost of borrowing very large sums of money, and the logistical issue can be, when the time comes, to either convince the federal government to collect the money through the income tax system or design an Ontario system to do the same thing. The latter would be a more complex but not necessarily an intractable problem. It would have to be worked through.

**Mrs Witmer:** You don't have any studies at the present time that you could share with the committee, or do you have anything?

**Dr Shapiro:** Not at the present time. We could make available to the committee the COU study, which we'd be glad to circulate to you, which we helped pay for and

worked through. We'd certainly be glad to make that available.

**The Chair:** I think that would be helpful, if you could do that.

**Dr Shapiro:** Yes, we could do that immediately, because we have that.

**Mr Daigeler:** To pursue the question on income contingency, because it's obviously a central focus of the question put forward by Mrs Fawcett, you indicated that there were three phases to your overall OSAP review and perhaps the second phase wasn't really envisaged when you originally embarked on it because it was really a restraint phase. Nevertheless, you said that consultations were ongoing. I am wondering what kind of consultations have been done on this income contingency idea. I have a copy—and I appreciate receiving that from your ministry—of the first round of consultation on OSAP review and I read the whole thing a few weeks ago. I looked at the table of contents. There's no mention at all of income contingency in this report and, if I'm not mistaken, I don't think the issue ever came up in that first round of consultations.

Obviously, if the ministry were to move in that direction, it would be a very significant shift in the whole OSAP program. As you probably know, I tried to tie the minister down a couple of times on that during the last session. Perhaps that helped to have the cabinet drop the idea at least for the time being, but who knows? Again, you're not at liberty to answer that question. But my question that I think you can answer is, what consultation has taken place on the income contingency question?

**Dr Shapiro:** The income contingency question has gone through a couple of different phases itself inside the ministry.

The first task we undertook, which was undertaken quite early while phase 1 was still going on, was to agree that we would jointly sponsor the COU study which we will circulate to you probably by tomorrow. Since then we have had a number of consultations on the possibilities for this program, both inside the ministry and with a couple of other groups. As well, we've tried to take a look at the Australian experience, for example, to try to understand how it might operate and how it might be helpful to pursue.

We have a meeting coming up within the next week or two again with COU and another group of people to try to pursue that further to see what's really in this model: Are there aspects of it that we can usefully use? I think it is true: Relative to the consultation you described in phase 1, it would be somewhat of an overstatement to say that it never came up. I think it would not be an overstatement to say that the group being consulted didn't like it and wanted to pursue other kinds of options in the OSAP program.

If you think about the context in which phase 1 began, there was a lot less concern about the fiscal viability of the program and a lot more concern about how to mould it in ways that would seem to be more appropriate from the point of view of the recipients of the program and the institutions of which they were a part. I think it is true that if we decide to go in the end with income contingency,

either in general or as a part of a student assistance program, it is a major change, but hopefully a really good review will yield at least one major change.

**Mr Daigeler:** There was a committee in place to do that first phase, and I think this book here is the result of that review. I think that particular committee is now disbanded, is it not?

**Dr Shapiro:** No, it's still in place.

**Mr Daigeler:** It's still in place. Has it been meeting?

**Dr Shapiro:** It was supposed to meet, I think it was, last Monday and I cancelled the meeting myself, I must say, because I wanted to be there and couldn't make it, as we were getting ready for the last-minute preparations for the budget, which came on Thursday of that week. We hope to reschedule it quite soon, because we do want to meet.

**Mr Daigeler:** So that committee will still be the ongoing sounding-board for you as to—

**Dr Shapiro:** It will at least be an ongoing sounding-board. I don't want to say it will be the only one. I haven't developed another one, so it's not that there's some other one we are using that I'm not discussing with you. There may be other groups you wish to consult as well, but we intend that to be the major ongoing sounding-board for this kind of program.

1720

**Mr Daigeler:** You will be going back to them, then, specifically with this income contingency question which still seems to be around?

**Dr Shapiro:** What we will be doing is going back to them with the alternatives the minister believes to be viable. I'm not going to say now what those alternatives are going to be, but that's what we will be taking to him. Of course, they're free to bring up anything they like.

**The Chair:** I have Mr Wilson. Mr Martin, Ms Mathysen wanted to question as well—if I could put her after Mr Wilson, because that may bring us to the end of our time and I see our next witness is here.

**Mr Gary Wilson (Kingston and The Islands):** Ms Witmer mentioned her two universities, so I'll meet those with two in my own riding plus a community college. Of course, that raises an interesting question. Only one of the universities I think uses OSAP.

My question has to do with your review and whether you are considering the operation of OSAP, in part relating to a question that all MPPs face, myself more immediately perhaps, and that is the frustration that students face in working through the system and just whether that figures into the costs, not only monetary but with regard to the students' ability to study.

**Dr Shapiro:** To answer the question directly and then say something a little bit about it, this review is not, at present, at all focused on the administration of OSAP. I don't mean that as a judgement that we've arrived at the perfect state for the administration of OSAP; it's just not in the terms of reference of this review.

As you probably know, OSAP does take a lot of administration. That is, of the almost 400 employees in the

Ministry of Colleges and Universities, about 150 are in Thunder Bay at the student support branch. That's a considerable expenditure. In addition, there are other administration costs that don't accrue to the government but accrue to the institutions—that is, institutions have financial aid offices which themselves participate in helping the students with OSAP. So there are those costs as well.

It would be our intention, once we finish the major policy phase of the review, to think about the administration of OSAP. It seems not helpful to think about that too clearly until you know what kind of program it is you're going to want to administer, because that will make a difference. So we hope to deal with that at a subsequent phase.

I should point out, however, that although there are a lot of frustrations in the system in terms of applying, filling out the forms, getting responses and launching the appeals—and did somebody drop the records in a ditch on the way from Thunder Bay to Toronto, stuff like that; there are all kinds of stories that occur and come up—the turnaround time for a response to an application has gotten much shorter, despite the enormous increase in the number of applications.

I think we have a group in Thunder Bay to which we owe a lot of thanks. It could have been a nightmare trying, without any increase in staff, to handle this gigantic increase in the number of applications. It was primarily made possible by two things. One is the beginnings, and it is only the beginnings, of an appropriate technology system for Thunder Bay. We're nowhere near through that but we have begun. But more important, I think the staff at Thunder Bay—Jan Donio, who is on my right, was the program director at the time—managed to put together a new application form for OSAP which has reduced by over 50% the number of applications that come in that aren't properly completed and therefore have to go through another round. It was our version of plain English to try to make the form somewhat more accessible. I'm not trying to say we've reached the ultimate aim in that regard, which is to make it really simple and straightforward, but I think enormous progress has been made.

Nevertheless, when we get to the end of the policy phase we will have to think of what the appropriate options are for the administration of OSAP. For example, I can count fairly regularly on getting advice from the Council of Ontario Universities at least that we ought to abandon the OSAP office in Thunder Bay, close that down, create the program parameters and allow the universities, each through their financial aid offices and the colleges each through theirs, to administer the program. A variety of other suggestions of that sort is always being brought forward and we will consider them, but we do feel that the policy issues have to be settled first so we know what kind of program we're talking about administering.

**Mrs Irene Mathysen (Middlesex):** You mentioned earlier that you had looked at a grants-only scenario. I was wondering: What were your findings? What were the significant findings in that review of the grants-only possibility?



**Dr Shapiro:** The grant-only possibility, which has the obvious advantages that we don't need to repeat, turns out to be simply very expensive. That is, since it costs a dollar for every dollar you give in grant rather than 40 cents for every dollar you give in loan, it's simply a much more expensive program if you want to reach the same number of students. You could of course reach fewer students with the same amount of money, but that would hardly be an advance for the program. But I think that's at least one of the major difficulties we'd face in that regard.

**Mrs Mathysen:** I had wondered if that was the irony: that in the attempts to make it more equitable by providing grants only there was that flip side of only being able to allow a certain and lower number of students to access.

**Dr Shapiro:** That's right. Many fewer students.

**The Chair:** I think we've moved to the end of the hour and a half, Dr Shapiro. I wonder if I might just ask you for one piece of information and then we can bring this part of the hearing to a close. If you have data with respect to francophone student participation in this program or if there are any particular elements of how the French-language system has—that would be of use.

**Dr Shapiro:** I don't have the information with me, but I'll certainly see what we have available and would be glad to make it available to the committee.

**The Chair:** I think tomorrow the Advisory Committee on Francophone Affairs is going to be here, but I just thought I'd flag that as one area that would be useful to us.

**Dr Shapiro:** We'll try to get it to you for tomorrow.

**The Chair:** If I might then thank both of you for joining us this afternoon. As indicated earlier, I believe we will have an opportunity at the end of our hearings to meet with you or perhaps with the minister or perhaps with a number of people, and we look forward to that. But we do appreciate very much the material you have brought to us, and also your answers to our questions.

**Dr Shapiro:** Thank you as well. Might I just add that in the subsequent meetings of the committee I will not be here. Jan Donio to my right will be here at each of the moments so as to keep us informed of what's happening. I would certainly be glad to come back not only at the end but any other time that you feel it would be helpful to have me with you.

1730

ONTARIO COUNCIL OF REGENTS  
FOR COLLEGES OF APPLIED ARTS  
AND TECHNOLOGY

**The Chair:** If I might then call Mr Richard Johnston, who is the chair of the Ontario Council of Regents for Colleges of Applied Arts and Technology. This particular seating, Mr Johnston, may seem a bit strange to you. For those watching I just indicate they will probably notice a familiar face and note that in an earlier life our current witness was a member of the Legislature. So we are delighted to have you here. Perhaps in order to maximize our time, Mr Johnston, you would like to make a few remarks. I know I have had the opportunity to sit on some committees

where I recall some interesting thoughts and ideas on OSAP, but we would appreciate your thoughts on that and then we'll get into some questions.

**Mr Richard Johnston:** Yes, I'm sure there might be a horrible sense of déjà vu for some people, but the enormous change that's come over me of course since leaving partisan politics will be evident to Mr Daigeler and others in short order, I'm sure. I did want to thank the committee for the invitation to appear on behalf of the Council of Regents of the college system. I'm here in that capacity as chair to respond to the initiative that's been taken under private members' prerogative here, one which I welcome. I'm very pleased the Legislature is looking at this general area.

The Council of Regents, however, has not had much time in recent months to be able to take on this issue. As you may know, besides a continuing responsibility for collective bargaining in the college system, which never seems to end, for which I'm now accountable, we have also been undertaking two major reforms: one around establishing standards in the college system, coming out of last year's budget, and also developing a paper on prior learning assessment, both of which are—

**The Chair:** Sorry, on which?

**Mr Johnston:** On prior learning assessment of adult learners in our system. Both documents are presently out in our system for consultation, so I'm basically on the road these days talking with our system and external people about these initiatives. We've got a deadline for the end of June to get them in to the minister, so we have not spent as much time on other issues like student loans as would have liked to.

We were involved in the first phase of the review by the ministry that the deputy has already alluded to, and we were very tied in at that stage, but in the last number of months we have not been as much; therefore I can't come here espousing a particular position on behalf of the council at this point for you, regrettably, although if you'd like to instruct me to go away and get that advice and give it back to you, I'd be more than happy to do so. But I am constrained, unlike the old days, in terms of expressing my personal opinions on these matters.

But there are a number of things I'd like to say. First and foremost is that a review of OSAP is crucial at this point, but in some ways I'm very glad that the review—which was started before the bad times descended on us as severely as they have—wasn't finished at that time, because what I've been discovering in my short tenure at the council of regents is that, in a very backhanded kind of way, the recession has been useful to our system to allow itself to look at some first principles again. I don't think the kind of review that OSAP has needed and which I have long advocated can be done in good times. I don't think it's the kind of thing that allows us to give up some of our territorial presumptions.

We are now, as you know, going to be establishing a restructuring committee to look at our whole system, and the timing of this kind of initiative you're taking and our need to incorporate OSAP review as part of that restructuring review are really crucial and need to be tied together.



There's no way we can look at things like the length of our school year or how many hours of contact there are between our teachers and our students and other kinds of issues of restructuring without also looking at who is coming into our system at the moment and how we are providing supports to them.

One of the things that struck me recently is that we've always presumed that college students and university students, as far as student loans are concerned, should be dealt with in the same fashion and the same formula. One of the things I'd like to pose to you is that perhaps that's not the case. They are very, very different animals.

If you look at our present makeup in our colleges, more than 50% now are adults, not coming out of the high school system at all. We have an enormous number of people taking part-time studies, and not part-time studies in a general interest kind of fashion but in applied learning towards a diploma. Between 800,000 and 1 million people in this province are taking those kind of courses at the moment. They are a very different mix than that which the universities find for themselves in terms of the various types of aid students need to get access.

Generally speaking, we still have a larger number of people coming to us from lower socioeconomic levels than universities attract. They have greater concerns about long-term debt, for instance, and when we talk about contingent repayment concepts and that sort of thing, that has different implications, depending on the profile of your student body, for the universities and for the colleges, and they shouldn't necessarily be lumped together.

We are increasingly having students from the university level come to colleges for applied learning after they have got their degrees. These are people who are going to be penalized in some ways if we maintain the present loan structure, as they've taken maybe four years of university and then try to come to a college for two to three years to be able to get more education, and find that in fact they're going to run out of ability to access loans.

So for a number of reasons, we really do have to sit back and look at whether the college student should be looked at in the same way for tuition and for loans and other kinds of assistance to come to our system.

Also, we've always looked at tuition as something that is tied as sort of a percentage of, arbitrarily, the universities' average tuitions. I'm not sure that that's an appropriate thing. I'm not sure we shouldn't be examining how much people are willing to pay to go to private vocational schools, as an example, and to look at that in terms of the questions in our students' minds between the length of time they take to get their course and the amount of money they're willing to put into it, which is often inversely proportional. That is to say, they are willing to spend more money to go to DeVry to get a diploma of some sort within nine months than they are to take three years of time at a much lower cost to come into a community college.

These are factors that I don't think are the same when you look at the university student, a higher socioeconomic group, generally speaking, more willing to take four years of debt accumulation than is a student coming into our system.

So when I look at the questions that are before you in terms of the motion before this committee at the moment, I think it is important to look at some of the potential downsides of going to a loans-only approach. I think there are, as I say, applications that are different on contingent repayment plans depending on what your socioeconomic mix is, and I think those things do deserve a good look. I've only heard the last bit of the deputy's comments, but my sense is that at this stage it would be foolhardy to throw the baby out with the bathwater as we look at renewal, but we had better do it, very clearly, in the context of reshaping our post-secondary system.

The final thing I say to you, when you look at our system at the moment and its applied learning and tie-in so directly into the economy, is that we have now, I think, had an average of about a 25% increase in applications this year, and in some communities it's as high as 50% or 60%, wanting to come to this kind of learning because it has the practical implication of getting them a job more quickly than, say, taking a BA does. That, I think, should have implications for all of us as we look at the restructuring of the system, as well as look at how we finance students.

I would be happy to answer any questions I can.

**The Chair:** Thank you very much. I might suggest to the committee, given the time frame, what I'd like to do is offer 10 minutes to each caucus to put questions, and perhaps, as they say, the Chair will not see the clock. That might be the fairest way of allocating the time. If that's agreeable, we will begin with Mr Daigeler.

**Mr Daigeler:** Welcome, Mr Johnston. I think you are rather familiar with this particular chair still; at least, I'm still familiar with sitting on the other side.

I was listening to what I thought, quite frankly, were valuable contributions, and one that I still remember quite well, though you may not, was that when I was first elected you were part of the panel that was introducing the new members to the legislative duties, and you indicated that in this business you have to concentrate your efforts on one particular area. I think that was very valuable advice and I'm still trying to follow it, even though it's difficult sometimes because there are so many concerns being brought to our attention.

Anyway, with that, as much as I want to mention with regard to your past life, you said in your presentation that it would be foolhardy to throw out the baby with the bathwater, and you mentioned this in the context of the income contingency debates. I wasn't quite sure what you meant by that, what the baby was in this case. Could you be a little bit more specific?

**Mr Johnston:** I think we have a system which has, with all its flaws—and goodness knows over the years I've pointed out a fair number of them—in fact permitted access to higher education for a significant number of people, and I think there has been some improvement over the last few years in terms of the time turnaround, as was alluded to just at the last in the deputy's comments.

Some of the strange anomalies still apply when you look at an adult who is 19 years of age or 22 years of age and determine what he should get based on his parents'

incomes. That always struck me as a very interesting human rights issue, in terms of why an adult isn't an adult and shouldn't be dealt with in terms of his own income if he so declares. That has always been a difficulty.

But besides the many sorts of aberrations in the system that have developed over the years, it has served people, and all I'm saying is that before you shift from one system entirely into another you want to be very clear that you're doing it in a way that's coherent with the other reforms you're trying to bring about. So my argument would be that while we're doing all our work on prior learning assessment and trying to find new ways for adults to enter our system, especially immigrant adults who have found it very difficult to assess our system in the past, we would be very wise to make sure that whatever loans, grants, combination or contingent repayment plan you develop understands the reality of who is there and makes sure it's coherent with that. That's all I meant. I'm happy we're not just rushing into something without looking at the context of the other reforms.

1740

**Mr Daigeler:** I'm just reviewing the groups that were participating in the consultation round on OSAP review, that first phase the deputy minister spoke about, and I notice that your council, the Council of Regents, was represented. Are you still involved in the ongoing discussions the deputy minister was referring to? Do you have a representative on the task force, or what is the link?

**Mr Johnston:** No. Since the first phase occurred, much of the other discussion did not include official council representation. I've been present at the deputy minister's policy meetings where the matter has been discussed, Jan Donio bringing forward matters of concern that were being raised at that time and that sort of thing, but we've not had an official presence on that task force since that first phase.

We're presuming that as we move further into an elaboration of a position—and I'm not sure what the timetable of that is—the council again will want to ask to be involved, and if it's not invited to be involved, we'll probably, as we have been proactively doing lately, be involving ourselves because of its touching interests of concern to the council.

**Mr Daigeler:** You mentioned some of the concerns that perhaps are more specific. I don't think they're exclusive to the college community but are more specific to the college community. You have more mature students, perhaps more part-time, the lower economic groups are more represented, and obviously those present special problems with OSAP.

From your knowledge, are you aware of any other problems in the OSAP delivery and OSAP program for the normal student at the colleges? What are the major concerns that have come up in the normal functioning, other than the ones you were referring to which relate to a change in, really, the population that's attending the college community?

**Mr Johnston:** It's hard to do this without being just totally anecdotal about it, but increasingly, as some colleges move to having programs start up at different times of the

year to be much more flexible in terms of the way they're offering programs and not just to have everything go through the full year beginning in September, that tends to hurt students who are entering the system later on, depending on what the OSAP budgets are like that year. It also seems to be a problem for some students who are entering the system for shorter-term projects, and again, in the number of the areas of adult training that go on in the colleges tied to post-secondary, there's a fair amount of flexibility there which maybe is not as built into a loans and grant system as it might be.

I'm not sure I would be able to enunciate any other particular aspects of the college versus the university that it might apply to.

**The Chair:** There's still a bit of time, if you have another.

**Mr Daigeler:** I said I wasn't going to refer back to your previous existence, but of course you may still remember that one of the policy goals of the NDP used to be the total elimination of loans and a move to a grants-only program. Do you think that would still be a desirable objective?

**Mr Johnston:** I've of course lost all my previous memory and I can't recount—

**Mr Daigeler:** Do you remember this document here?

**Mr Johnston:** I would be happy to look at the document and check to see if that was the case. My difficulty on this is that my personal opinion as I come before the committee is secondary to that of my role as chair of the council and it's not appropriate for me to be expressing my own personal biases. I can try to convince council of those, as we proceed along. I think the obvious problem with going to a grants-only process is cost and getting bang for your buck, as it were. Some of the recent studies, out of the United States in particular, looking at the effectiveness of a grants-only program versus a loans mix in terms of access, have been fairly inconclusive about the effects of that for the cost of doing it in its entirety. I think it's something worth revisiting, as is almost any idea, and again, if you look at the kind of effect it would have on the present-day budget of a ministry like the Ministry of Colleges and Universities, it would be pretty staggering at this stage.

**Mr Martin:** I also would like to welcome you to the committee today, Mr Johnston. I want to revisit quickly with you the actual statement that comes to this committee for us to look at, which is, "The impact of a loans-only program on the system," and then it goes on to an examination of alternative student funding strategies. I think one of the focuses here is the loans-only piece of it and how that might be implemented.

I think you spoke of placing anything we do by way of OSAP within the larger context of how we do post-secondary education and the restructuring that may be going on. You spoke as well of the changing picture where it concerns the age and the makeup of the student population and part-time and all of that.

I know you spent a lot of time in your previous incarnation looking at the question of poverty. In the statement we



those things as we go further. We shouldn't presume there is one prescriptive response for all, but it may turn out that the fairest and most equitable way, in the end, is a flawed system; not necessarily the kind we have now, but of some sort, because to be otherwise becomes too much of a cherry-picking kind of exercise where you don't have the consistency of application you really want. On the other hand, if we haven't looked at other ways of being flexible—and the presumption is that colleges, universities and private institutions should all be dealt with in the same way—then I think we will have missed an obvious opportunity at this stage as well.

**The Chair:** Just one final question: The deputy noted that in September it is their intention to present a proposal or proposals to treasury board. Will the council between now and then be addressing more specifically this issue, either in the context of the committee that is ongoing, or is there a working group that you've established? I just wondered what approach the council will be taking.

**Mr Johnston:** At this stage, the most I can say is that the deputy and I, in the 80 million times a week we seem to see each other and all the other things that are happening in the colleges' agenda at the moment, should chat

about the best ways the council can lend its advice to the process.

There are a number of ways it could happen. It could happen as part of the ministry's process in a task force style approach. It could be after things have actually gone forward. The minister might ask us for private advice on this matter, and that would also be an appropriate way for us to go. It will probably be myself and an assistant deputy minister, as it has been for the Transitions dollars, but there will be a co-chaired approach to look at restructuring our system that will be launched in the near future. It seems to me that's within its context as well as another avenue for the council to have a say on financing of a system which, obviously, in an indirect fashion, also includes student assistance.

**The Chair:** Thank you very much for coming before the committee today.

Just before closing off, I would remind members of the committee that we will meet again tomorrow at 3:30 in this place, and that our first witness will be the Ontario Federation of Students. This meeting stands adjourned.

The committee adjourned at 1804.











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### STANDING COMMITTEE ON SOCIAL DEVELOPMENT

- \***Chair / Président:** Beer, Charles (York North/-Nord L)
- \***Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)  
    Drainville, Dennis (Victoria-Haliburton ND)
- \*Fawcett, Joan M. (Northumberland L)
- \*Martin, Tony (Sault Ste Marie ND)
- \*Mathysen, Irene (Middlesex ND)  
    O'Neill, Yvonne (Ottawa-Rideau L)  
    Owens, Stephen (Scarborough Centre ND)
- \*White, Drummond (Durham Centre ND)
- \*Wilson, Gary (Kingston and The Islands/Kingston et Les +les ND)  
    Wilson, Jim (Simcoe West/-Ouest PC)
- \*Witmer, Elizabeth (Waterloo North/-Nord PC)

#### **Substitutions / Membres remplaçants:**

- \*Cunningham, Dianne (London North/-Nord PC) for Mrs Witmer
- \*Lessard, Wayne (Windsor-Walkerville ND) for Mr Owens
- \*Poole, Dianne (Eglinton L) for Mrs O'Neill

\*In attendance / présents

**Clerk / Greffière:** Mellor, Lynn



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Second session, 35th Parliament

## Official Report of Debates (Hansard)

Tuesday 5 May 1992

### Standing committee on social development

Student assistance

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

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Aide financière pour les étudiants



Chair: Charles Beer  
Clerk: Lynn Mellor

Président : Charles Beer  
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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 5 May 1992

The committee met at 1539 in room 151.

### STUDENT ASSISTANCE

Resuming consideration of the designated matter pursuant to standing order 123, relating to student assistance.

### ONTARIO FEDERATION OF STUDENTS

**The Chair (Mr Charles Beer):** I call the meeting of the standing committee on social development to order. We are in the second day of looking at OSAP. Our first witnesses today are representatives from the Ontario Federation of Students. I welcome you to the hearing. I have three names in front of me and I see two persons, so maybe you could introduce yourselves. As you know, we have half an hour for a presentation and questions. We'll take the half-hour from when you begin. Welcome.

**Ms Laurie Kingston:** My name is Laurie Kingston and I'm the chairperson of the Ontario Federation of Students.

**Mr Rob Centa:** My name is Rob Centa and I'm a member of the Ontario Federation of Students from York University.

**Ms Kingston:** To begin with I just want to say a word about who we are. The Ontario Federation of Students is a democratically run organization that represents post-secondary students from colleges and universities across the province of Ontario. We have over 200,000 members at this time.

It is important to place the issue before you today in context. To consider the option of converting the current delivery mechanism for student aid from a mix of grants and loans to an all-loan system, a developed understanding of the current weaknesses of the system is required.

A system of student aid designed to promote accessibility to post-secondary students must contain several fundamental components. It must realistically assess the costs that are faced. It must deliver the assistance required based on the individual financial need of the students. It must be sensitive to the needs of today's diverse student body. It must have expected contribution tables and repayment schedules which make allowance for the differential earning profile of students from historically marginalized groups. Just by way of example, women on average earn only about two thirds of what men do in equivalent jobs. Such things, say during the summer, for expected contribution are not taken into account when women as well as men are looking for jobs. It must remove the prospect of a massive debt load which will deter many potential students from pursuing post-secondary education. We argue that at this time OSAP does not meet any of the above criteria.

In any study on the feasibility of shifting the current grant and loan mix to a primarily loan-based system, the issue of student debt load must be considered. In 1990-91 students on OSAP took on about \$3,500 of debt per

academic year. That's an average. Some incurred a much greater debt load than that. After four years a student will be entering the job market \$14,000 in debt. Again, there are many students who owe more than that by the time they leave school, when they graduate, go to part-time or cease being in post-secondary education on a full-time basis. In addition, one must consider the further debt load often incurred by graduate students.

In addition, debt loads become more onerous for members of traditionally underrepresented groups who often earn less upon graduation than the national average. Many students find themselves using up to 16% of their income before taxes to repay student loans. Commercial banks consider 8% to 10% of annual income to be used for such purposes as a heavy debt load.

One detail which is often overlooked is the fact that loan repayment commences six months after a student is no longer considered to be a full-time student. This means that when students, and frequently this is for financial reasons, cease to be full-time students payments begin and interest accumulates. What they are then faced with is a vicious and escalating circle of bills and interest payments. Even if the students drop down to part-time for financial reasons, they find that they must work part-time, go to school part-time and still make the maximum payments on their student loans.

It's important to recognize that the chartered banks make a significant profit on student loans, a profit which would surely increase if any shift towards an all-loan system is made. Currently the government does most of the paperwork and absorbs all the risk while the banks collect a very handsome sum of interest from both the government and the students. A student leaving university with a debt of \$14,000—the breakdown of that would be approximately \$10,000 for Canada student loans and \$4,000 for Ontario student loans—can expect to pay at least \$9,600 in interest to the banks while repaying her loan. The government will have paid about \$4,900 in interest to the banks while the student was still in school. The extension of \$14,000 of student loans to the student therefore has generated \$14,500 in interest to the banks without any risk on the part of the latter.

Students graduating with massive debt loads face immediate limitations on their future options. Graduates wishing to establish small businesses, invest in existing operations or continue with their studies are immediately constrained by debt loads which often exceed manageability.

It is evident that the current situation is not working. The thousands of students living below the poverty line while on OSAP, and the creation of the Ontario Student Assistance Program Review Board to examine the program, stand as proof that the status quo is not acceptable.

One of the options often touted as a panacea is an income-contingent repayment plan, known as ICRP. The federation takes issue with a number of aspects of the proposal: the massive startup costs associated with the plan, which could threaten program feasibility; The implication for graduates with atypical employment experience, and the psychological barriers to participation created by the prospect of entering into lifelong debt are all negative aspects of any ICRP scheme. We do not feel students should bear the burden of debt for their education for the rest of their lives. Our preferred system involves a truly progressive system of personal income tax and a fair and progressive system of corporate taxation.

We believe that a society which aspires to overcome social and economic inequality must provide educational opportunities which break social barriers and bypass economic disadvantages. Education is a right, an essential service. It must be available to all persons regardless of ability to pay. A vital and well-funded system of student assistance is essential in achieving these ends.

Before going on to questions, I'd just like to explain a bit of what the appendices we have included with our document are.

The first is a series of recommendations that we made subsequent to the first chapter of the Ontario student assistance review. They are what we deem to be short-term improvements that need to be made to the system at this time.

Appendix B is a research paper we put out in June 1990. You'll note that it includes a list of allowable costs, what OSAP included as allowable costs the year this was put together and what we consider to be allowable costs.

The first part of appendix C is a fact sheet that we've put together on income-contingent loan repayment schemes. There's one on student assistance, one on graduate student assistance and one on tuition fees. These were part of an information package we put together during a series of information sessions we held with MPPs from across the province. We had our members come in from colleges and universities across the province to participate in this series.

**The Chair:** Thank you very much, for both the presentation and the attachments. Also, thank you for the lobby earlier this year. I think probably all of us here had students in to see us. What we're going to do, then, is just divide up the remaining period of time. Each caucus will have an opportunity to ask questions. That will work out to approximately seven minutes for each caucus. We'll begin with the Liberal caucus.

**Mrs Joan M. Fawcett (Northumberland):** I have just one question. I get a lot of calls from students and parents of students who perhaps have been turned down. They can all cite cases where there are abuses by students who have received loans, or even grants sometimes, and according to the stories, shouldn't be receiving them. They really should not be eligible; the parents are quite able to contribute. Could you just give me your opinion on that? From your vantage point what have you seen?

**Ms Kingston:** That's a question I hear quite frequently. Everybody likes to talk about the example of the

next-door neighbour who supposedly is on student assistance and has just bought herself a car. I believe that in any program that's necessary, any program of social assistance, there is opportunity for fraud. I believe quite strongly, though, that the cases of fraud are not the majority. They make good stories. I believe those cases are the minority. Because there are cases of occasional fraud does not mean that our health care system should be abolished, that welfare should be abolished, that unemployment insurance should not exist. I believe that to claim the student assistance program should be cut back or that criteria become more stringent is not—I don't think that would stop fraud. People can still lie on their forms.

1550

**Mrs Fawcett:** That's right.

**Ms Kingston:** There are still, I believe, many students who need student assistance who aren't getting student assistance, and many students who are accessing the system who aren't getting enough to live on.

**Mrs Fawcett:** I certainly agree with you. Thank you.

**Mr Hans Daigler (Nepean):** Thank you for appearing before the committee. As it turns out, I think the subject is even more timely than when Mrs Fawcett originally introduced it as a motion, which was of course before Christmas. It appears that OSAP is being chosen by the government as one area to cut back rather than to perhaps improve and expand, which, as I am sure you are aware, is somewhat contrary to their own previously stated goals.

You, I think, have been involved in the review that has taken place up to now. Do you continue to be represented there? The deputy minister yesterday was, I think, quite strong in saying that, yes, consultations are continuing, the question of income contingency has come up and we've consulted on that. Would you agree with the deputy minister? Are you satisfied with the consultation as it has happened so far and, in particular, the consultation with regard to the income contingency plans?

**Ms Kingston:** I do continue to participate in the OSAP review process. During the first segment there were three reference groups, and Rob was on the one about financial eligibility. We had representatives on all the reference groups, I sat on the general advisory committee and continue to participate in the OSAP review.

We were very disappointed to see that the recommendations that we felt were necessary to make at this time—it must be noted that the base amount of money allocated for student assistance has not been increased since 1983. I don't believe the recommendations we made were outlandish, and they were even subsequent to the OSAP review and the very cooperative process in which we participated. It was decided that at this time these would not be implemented.

As far as income contingency is concerned, it was noted that we would discuss it during the second phase. It is my understanding that Professor David Stager put together a model which, for the purposes of the ministry, was to be value-free, and was doing it in conjunction with the Council of Ontario Universities. They could use it in whatever way they chose and the ministry was to use it as a model to determine the feasibility of the applications of



this model. We were told, at the level of the OSAP review, that this particular model was to be rejected because the front-end costs were too great and that this was not something that would be applied at this time.

Beyond that, we're still several models—the meeting that was to have been held on April 27 was not held and I imagine that we are to continue considering different models until we see what comes out of that; until we begin to see actual changes in the program. I can't comment on the value of this consultative process because we haven't seen anything implemented from it as yet.

Do you want to add something to that?

**Mr Centa:** I think the consultation has been somewhat open, but again we need to see what the results of the consultation really are: whether it is just a process where we can put our positions on the table and then the government chooses to ignore them, or whether the input we are giving is being seriously considered and given value in the policy formulation.

It was somewhat surprising to hear yesterday that the deputy minister was planning on meeting with representatives of the Council of Ontario Universities and other groups to further discuss an income-contingent repayment plan proposal. We had not yet been informed of that meeting. I guess we are expected to hear about that in the next couple of days.

**Mr Daigeler:** That's why sometimes these committee hearings are quite useful. We find out about things that—in your presentation—

**The Chair:** I'm sorry, Mr Daigeler, it's time.

**Mr Jim Wilson (Simcoe West):** Thank you very much for your presentation. I should tell you that after four years in the University of Toronto, I guess I was an average student, because I graduated with exactly \$14,000 worth of OSAP loans. I'm still paying those loans today, and I've been fortunate since graduation to have good jobs. So I have complete sympathy with what you've stated here, although to play devil's advocate for a minute, I notice one line comes right out of the NDP's Agenda for People, where it says, "We should have a truly progressive system of taxation and a minimum level of corporate taxation," as one of the solutions.

To be fair to the government, I think its own Fair Tax Commission came back and said that even if we tax the hell out of corporations with a minimum tax, we're not going to get any more than about \$200 million worth of tax. So that isn't going to be the panacea, and we're already the highest-taxed jurisdiction in North America. In fact people are leaving and there aren't jobs.

Interjection.

**Mr Jim Wilson:** It is true. We won't debate it, but it's well used by a number of people who know what they're talking about.

I would say, what other suggestions do you have? I agree with you, it's a shame the government's cutting back, but before they get their chance to ask you this question, I'll ask you the question.

**Mr Centa:** There are a number of answers to that. The first thing is that the Fair Tax Commission—my under-

standing is the government is going to re-examine the establishment of a minimum corporate tax in the fall to look at the feasibility of implementing it.

One of the things we strongly believe in is that any student systems must be nationally oriented, and what we've seen is that it's very difficult for one province to implement a fair system of taxation when one might argue the direct opposite is happening at the federal level. We've seen a shifting tax burden in Canada from where out of 100% of taxation, 50% came from corporations, 50% came from individuals. We now have more of a situation where 80% is coming from the individual and 20% from the corporation. While I might agree with you that individuals have certainly seen their tax burden increase, I'm not convinced it would be fair to say the same for corporations.

Certainly I think one of the proposals we have in terms of generating excess revenue would be to close some of the tax loopholes that currently exist. I think it's fair to look at tax loopholes as a government spending program when they're offering subsidies for entertainment expense, that sort of stuff. It really is a spending program in the same way that spending on social assistance is a spending program, and I think there needs to be, again, a rigorous evaluation of the merits of each of those spending programs in sort of an overall analysis of where we choose to collect revenue from.

I'm not convinced that we are in the highest-taxed region in North America.

**Mr Jim Wilson:** Wait till you get your first paycheque.

**Ms Kingston:** We've both had our first and second and it's—

**Mr Centa:** I think that's one of the ways we propose to generate revenue.

**Mr Jim Wilson:** Your answers aren't surprising. We'll beg to disagree on the facts. None the less I think I'll point out and ask your comments on student job prospects, not only this summer but throughout the school year, because in spite of the OSAP loans, for a great length of time in university, and also being governor of the university, I think I had four jobs. I can't see students now being able to actually do that. Do you have any recent statistics on how bad the job market is out there?

**Mr Centa:** Last year the unemployment rate for returning students nationally was 14.5%, and Ontario came in right about the national average. Of course within Ontario it's incredibly important to remember the regional diversity within summer employment opportunities. What we're seeing in Toronto is a very bad summer this summer. We can't even really compare to some of the northern communities. Some of the students who are leaving community colleges in the north and finding the unemployment rate in their own town is over 20% or 30%, and that is for the general workforce, not to mention students.

What we're seeing is that for the summer job market it's going to be, again, very difficult. There were 400,000 Canadians between the age of 15 and 25 who were unemployed in March, and that's before the influx of university



students in May and the influx of high school students in June. So I think we're looking at another very bad summer.

It's important to remember that only once in the last decade did student summer unemployment ever drop below 10%, and that's even in the so-called good times, so you've seen this has been a continuing problem of underemployment for our university students over the last decade.

In the jobs that are out there, we're finding that the jobs students are getting are lower-paying jobs. They're not career-related jobs; they're not related to their field of study the way they have been in the past. More and more jobs are demanding commission work with no salary, commission only. We're seeing jobs that are of a shorter duration, and the requirements for the jobs are continually going up as students are competing against other members of the unemployed workforce. I don't think we can see student unemployment separated from unemployment as a whole in the province. I think currently students are being hit in the same way, if somewhat harder, than other workers in the province.

1600

**Mr Jim Wilson:** Some would argue—and perhaps your group wouldn't, but go with me for a minute on this one—that either students pay now or they're going to pay in the long run anyway. I think, to be somewhat critical, you do your group a disservice by saying that they're going to enter into a lifelong debt. You're right. But one way or the other they're going to end up going into lifelong debt because of the tremendous debt of the province and of the country, which I don't think can be dismissed. We've had too many years of dismissing it.

In the answer to my first question, you talked about priorities and that this should be a priority to the government. But again to play devil's advocate, if this should be a priority—and I ask all groups this—then what should be cut in government?

**Mr Centa:** Can I answer the first part of your question first, then come back to what should we cut?

**Mr Jim Wilson:** Sure.

**Mr Centa:** We feel that benefits accrue to an entire society from an educated population. Certain benefits accrue directly to the individual, and those are most readily seen in the form of increased employment opportunities, increased wage when you are employed; these are the benefits that accrue to the individual from education. We feel the fairest way for people to pay back into the system is a progressive system of taxation that takes into account their earning potential, because I think that's the only truly fair way to tax people, rather than utilization of user fees. Through the income tax system, we have a way of allowing people to pay back into the system. When students are accessing post-secondary education, I don't think it's fair to ask for upfront contributions in the form of user fees which are flat and don't represent the individual's ability to pay.

**Ms Kingston:** I'd just like to add that studies show that by the year 2000, fully two thirds of all new jobs will require some form of post-secondary education. I would argue that the distinction between post-secondary education and the rest of our educational system is one that is

changing; it's one that is becoming harder to distinguish. I think that in many cases, if individuals are not permitted to access post-secondary education and are not helped to do so, we will be paying for those people at the other end in the form of unemployment insurance, in the form of social assistance. I think the key to having people employed is to educate them, and student assistance is an investment to that end.

**Mr Drummond White (Durham Centre):** I was very impressed with your presentation, Laurie and Rob. Thank you. I had a couple of questions. One of the things you mentioned about the bank collections I thought was really marvellous, because here we are at a time of recession and it seems like the banks are the only people who are making a profit. With the tremendous increase in demand on the OSAP program, that program was reinvested in last year because of the number of students applying. Basically what we're doing is offering a guaranteed minimum income to the banks. It almost seems logical to fund the system on the basis of taxation there alone.

You spoke highly of a progressive tax base, so students, when they are finished university, when they are at the beginning of their careers or their professional lives, would be able to invest in a profitable way for all of us and, as time went on, when they accrued the benefits of those investments, would then be paying through the progressive tax system. It seemed to make a great deal of sense.

On the other hand, I'm just thinking of the reaction there would be. I'm just looking at the news clippings there with Mr Harris. Just think of the outrage there would be from some members to an increase in taxation for the wealthy, and these are the very students who would later be paying those taxes. Any thoughts on that one?

**Ms Kingston:** I'd just like to re-emphasize that when we talk about corporate taxation, we're not talking about increasing the tax load on lower-income people and middle-income people; we're talking about 118,000 profitable corporations in Canada that paid no income tax at all last year. I think it's misleading, as soon as the word "tax" comes up—and I'm sure that you're aware of this—to say that the individual who's making \$40,000 a year should be contributing a greater percentage of his or her income.

**Mr White:** No, I quite agree. What I was referring to was a progressive tax system, a tax system that would apply to people who have had the benefit of a university education, people who now have MBAs, doctorates in law, doctorates in medicine, people who are making substantial incomes, people who phone our offices and say: "How dare you raise my taxes? I'm only making \$400,000 a year." Those are the very people who are now students.

**Ms Kingston:** Those people are the people who should be contributing. I think no matter what decision any government makes, no matter what policies, what changes it formulates or imposes, there are going to be people who are displeased with that. The notion of minimum corporate tax is one the New Democratic Party has long been fond of, for lack of a better term.

**Mr Daigeler:** That was then, this is now.

**Mr Jim Wilson:** Read the budget. The Treasurer explains very clearly why corporations get a break on tax.

**The Chair:** Order, please.

**Mr White:** We have a witness.

**Ms Kingston:** If I may be permitted to finish. Having read the budget, I think it is time that the New Democratic government returned to the Agenda for People and returned to the commitments that it made when it was running. I think that having the courage of your convictions and the courage to follow up on your own policy is something this organization will continue to ask for.

**Mr White:** Great.

**Mr Centa:** For a long time, corporations in North America, Canada and the province of Ontario have been gaining the benefits of a very well educated, very well skilled work force. They have been contributing very little to the education of these people when they're leaving post-secondary education, and this is not just universities but also the colleges in the province. If we as a province are going to remain or to become truly competitive within a global economy, our greatest natural resource will continue to be an educated work force; to be able to take the competitive advantage, to be able to innovate, to be able to make the sort of changes that we need to see in order to retool our economy. It's at this very time that corporations and society should continue to fund post-secondary education. We really see it as the only hope for the future economy of the province.

**The Chair:** Thank you very much. I'm afraid that brings us to the end of the half-hour. I might ask, as the hearings continue, if there are any particular issues that come up where you have some other information beyond what you gave to us today, the committee would be very pleased to receive that from you. Thank you very much for coming today.

#### COUNCIL OF ONTARIO UNIVERSITIES

**The Chair:** I call on the representatives of the Council of Ontario Universities. While they are coming forward, I will note to members of the committee that yesterday we had asked for a number of documents from the Ministry of Colleges and Universities. You should all have received three: One on athletic scholarships, one on the simulation model for contingent repayment that was prepared by David Stager of the department of economics and the final one on the francophone students and the Ontario student assistance program.

Second, I would also just note for those on the subcommittee that we will meet tomorrow at 3:30 in room 230. If we finish the question period earlier, we could get together as soon as routine proceedings have been completed.

Welcome to the committee. Please introduce yourselves. We will have the full half-hour from when you begin.

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**Dr Peter George:** Thank you. Mr Chairman, members of the committee, we are pleased to be here today to speak to you on this important issue. I am accompanied by my director of communications and public affairs, Ms Patricia Adams, and by the director of research at COU, Mr

Edward DesRosiers. My name is Peter George and I am president of the council.

We have prepared a brief for you and that has been circulated, along with an attachment. I hope you will read it thoroughly and be persuaded by its argument.

The Council of Ontario Universities believes that it is in the best interests of the people of this province that any student with the ability and the desire should have the opportunity to participate in Ontario's university system. If our young people are to compete in a world that is rapidly changing, one based on an information economy, they must be equipped with the knowledge and skills they will need. Their ability to contribute to the economic, social and cultural fabric of the province will benefit all the citizens of Ontario. This is the public benefit or social benefit derived from university education and it is the rationale for governments providing some 80% of the funds required for university level education in Ontario.

There are also private benefits which accrue from higher education. University graduates attain a much higher income level and enjoy a far higher rate of employment than those who do not benefit from a university education. The labour force participation rates for university graduates between 25 and 44 years of age, for example, are 98% for males and 86% for females in Ontario. These are extremely high labour force participation rates. The employment income of university graduates in Ontario in 1989 was almost double the average for the rest of the Ontario labour force. The private benefits which flow from university education provide the rationale for university tuition fees for the student's own investment in higher education.

Tuition levels should not be a barrier to young people seeking knowledge. It is important that we devise a student assistance plan that makes money readily available to students to support the cost of higher education without consideration of their family or personal income level. By developing such a scheme, we could eventually eliminate the current student assistance program which operates on the basis of a highly regulated means test.

Let me talk briefly about income-contingent repayment plans. We believe that an income-contingent repayment plan will offer all students who have the ability and the wish to attend university an opportunity to do so. The program, which would be administered by a government-sponsored agency, would establish a fund that would make educational loans to students regardless of their income or their parental income. These loans would be paid back by graduates through the income tax collection system.

The program would be optional. Any resident of Ontario who wished to be a student at a publicly funded post-secondary institution in this province would be eligible for financial assistance. Conditions in the loan contract would include the terms of repayment, the percentage of annual income to be paid, the maximum number of years during which payment would be required, the interest rate to be applied to the principal amount and any arrangement for full repayment of the outstanding amount at any time in the life of the contract.

If the graduate had a taxable income level that was less than a predetermined threshold level, payment would not



be required. For those individuals whose income was not sufficient to repay the principal within a 20- to 30-year time period, the loan would be forgiven. No payment would be initiated until a predetermined level of income had been reached.

Details on policy options are provided in the attached report, *Contingent Repayment Student Assistance Plans: An Outline of Policy Options*, which we prepared last September. Council has also developed more recently a user-friendly simulation model to examine the financial repercussions of these alternative policy options. We would be pleased to provide a copy of the model to anyone requesting it.

The loan options are important and worthy of further comment. The plan provides flexibility among loan options. The total amount that could be borrowed could be limited to a specific amount, to some fraction of the tuition fee, or it could be the full fee plus other academic expenses: books, supplies, accommodation and travel. The amount borrowable is a variable in this model and could be set according to government policy.

It may be advisable to cap the total amount that a student could borrow over the duration of his or her program of study. Longer and more expensive programs are generally associated with higher earning levels of graduates of these programs—for example, medicine, dentistry and law. Currently the plan is structured to operate at the undergraduate level. It could be extended to include students in post-graduate programs, but generally speaking these programs operate for undergraduates. Many students in post-graduate programs of course have available to them a variety of fellowships and assistantships to help defray the current costs of study.

Rough approximations of the annual capital requirement, that is, the total amount to be borrowed were existing levels of tuition to be covered by such a plan, are estimated at about \$350 million annually. Versions of the plan that provide for larger annual grants in tuition fees, either for increased tuition fees or generic student assistance, would of course require a larger annual budget.

The repayment options are again subject to certain principles. The underlying principle of contingent repayment student assistance plans is that they rest on a graduate's ability to repay. Within this general framework several options present themselves:

First, the repayment might begin and would continue only after a graduate's income exceeded a certain threshold; for example, average labour force earnings.

Second, the unpaid balances after a fixed period—and here we use, for example, 20 to 30 years—might be forgiven.

Third, the rate of annual repayment might be graduated according to level of income attained.

Dropouts would not be exempted from repayment because such exemptions might, at the margin, result in students refusing formal graduation in order to avoid repayment.

The cost to government is an important issue. In 1991-92, the administration of OSAP cost the taxpayers of Ontario about \$252 million. The costs of an income-contingent student assistance plan will vary depending upon the level

of interest assessed and the method of repayment selected. Although highly variable, the cost can be estimated using the simulation model developed by COU. However, the important point is that the potential for significant cost saving exists.

Sources of finance could come either from the public or the private sector. The required financing could be provided, for example, by government borrowing. It could also be provided by borrowing from the private sector, especially from insurance companies and pension funds with appropriate government guarantees. This would make funds available at a lower rate without adding to government's own debt.

In the early stages of the program, the existing student assistance programs could be continued in order to provide the full amount of assistance required. As the income-contingent plan matured, the existing student aid program could be reviewed and the various policy options favoured by government explored and implemented. The cost to government of student assistance could fall significantly and could be targeted on underrepresented groups or other groups designated by government policy.

Let me make a few comments in conclusion. Our interest in income-contingent repayment plans has been stimulated by the continual erosion of government financial support for Ontario's universities, and the growing realization that increased tuition fees may well be a necessary component of our financial recovery if the demands for greater accessibility and quality of education are to be met.

We have made these points before, most recently in this room in our brief to the standing committee on finance and economic affairs last November.

The current review of student assistance and tuition fee policy is timely and important. At COU we are continuing our investigation of income contingent repayment plans and we stand ready to participate with government in finding creative solutions to the fiscal challenges confronting us all.

We'd be quite happy to engage in discussion and to answer any questions the committee members might have.

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**The Chair:** Thank you very much for your submission and also for the attached document. Was this document which is dated September 1991 presented to the ministry working group or committee?

**Dr George:** This has been shared with the ministry working group.

**The Chair:** Okay, fine. We will begin then with the Conservative caucus, Mrs Cunningham.

**Mrs Dianne Cunningham (London North):** Welcome. Good to see you again. I have some questions with regard to the third paragraph on page 2. I suppose it's the arrangements that would be made with the graduate with regard to payment or not. I'm just wondering if you'd explain to us how you came to this conclusion that in fact these loans would not be repaid under certain circumstances.

**Dr George:** I'm going to share responsibility for answering questions with my colleagues, but let me say first of all, and Edward may wish to embellish this answer, that in most of these plans there is a conscious attempt to



acknowledge that for different kinds of disciplines, the level of private benefits accruing to the graduate will differ, and there are arguments that could be made, quite cogent and persuasive arguments, I believe, that a homogenous pattern of tuition fees might better be replaced by a varied set of fees at the time one is a student which attempts to capture some of the differences in expected incomes.

For example, somebody who is taking a BSW, a degree in social work, might pay a minimal tuition fee and somebody who is studying an MBA, which has high expected lifetime earnings, might pay a much more sizeable fee. So that is one thing.

The second thing is that the repayment systems are an attempt to gauge those private benefits from different activities and to tailor repayment to the levels of private benefits enjoyed by the graduate. If somebody is a graduate of social work in that instance, for example, it may be that private rates of return are relatively low and that social benefits are relatively higher. It may be that incomes then are not much above average labour force earnings, so average annual repayments are relatively low and a more protracted period of repayment is in order. It may even be that by the end of the 20-year period, for example, not all repayments have been made, in which case there would be a conscious attempt to lift the burden, to say that this private earning capacity has been well-documented for 20 years and the burden should be erased.

On the other hand, somebody with very high earnings may repay the burden of the debt much more rapidly, and may even opt, especially if there are incentive systems, to repay it all at once very early on in the time period. The differences in repayment packages are really an attempt to capture the differences in the private benefits accruing to students who invested in degrees. I don't know if Edward wants to add anything to that.

**Mr Edward DesRosiers:** It's our expectation that the typical graduate would repay outstanding loans within a 10- to 15-year period, but there are going to be exceptional cases where, for example, an individual has taken time off from his working life to pursue non-remunerative activity. We feel that it's important that the debt burden not go on in perpetuity, that there be some element of forgiveness in recognition of the differences in earning patterns over an extended period of time.

**Mrs Cunningham:** That's helpful.

**Mr Jim Wilson:** Thank you for your presentation. On point 5, I'm staggered at the cost of administration for the OSAP program. Does that just include shuffling the paper around, or is that default on loans?

**Mr DesRosiers:** That includes the grants and the foregone interest costs of the loans, plus the administration, but you would do better to ask ministry officials for those relevant details than us.

**Mr Jim Wilson:** That's a very good suggestion; I think I will. But in your suggested model, how is it that the administrative costs would be lower?

**Dr George:** The fact is that with these models, one can simulate different degrees of subsidy, for example, to the students. The elements of subsidy can be affected by,

for example, the rate of interest that is charged to students on outstanding burdens and the repayment provisions generally. The administration costs would, I think, be probably less in this system, especially with the incentive of recourse to the private capital market as a market—

**Mr Jim Wilson:** Which leads us to my next question.

**Dr George:** Edward is more familiar with administrative details of these programs than I.

**Mr DesRosiers:** One of the features of the plan, I think, is its administrative simplicity. There isn't a means test to administer, which is a considerable element of the administration of the present OSAP scheme.

**Mr Jim Wilson:** As I gather, it's consumer choice. You could ask for the maximum amount or not if you were student.

**Mr DesRosiers:** That's right, and depending on the level of subsidization of the interest rate, you may get more or less pickup of the plan. I think that's one of the policy options you've got to weigh very carefully when you look at the amount of subsidization of interest rate which you're prepared to offer.

**Mrs Irene Mathysen (Middlesex):** In your brief, you talk about sources of finance. You mention that the government's borrowing power might be utilized and that borrowing might take place from the private sector, insurance companies and pension funds. I am wondering—and I'm basing this question on the presentation we heard just prior to yours regarding the fact that the corporate sector also benefits greatly from the students who graduate from our colleges and universities—do you see the corporate sector as a source of funding? Do they have a role to play in providing the kind of funding we need to keep that quality and very productive student available to that sector?

**Dr George:** I am going to suggest a couple of thoughts on this and then ask Edward to comment further.

I think one way to approach this is to say that the corporate sector would already be providing an indirect contribution. If the wages and salaries that are paid to university graduates are reflective of the market and of the value added provided to those graduates by a university education, then in the act of paying wages and salaries that are then taxable by the personal income tax system, the corporations would be making that indirect contribution to the support of university education.

Second, I tend myself to put rather more emphasis on the role of the corporate sector in the research partnership opportunities with universities. I'm a very strong advocate of the cooperation between private industry and university research as is exemplified by the centres of excellence program, the university research incentive fund program and so forth. I think that is a much more significant direct contribution of the corporate sector, especially since the indirect contribution through the wages and salaries that reflect market processes are already feeding personal income tax revenues.

Edward may want to embellish that.

**Mr DesRosiers:** To the extent that there's a general public benefit from universities that the tax system supports,

and corporations pay taxes, as do individuals, there's that additional degree of corporate support being fed into the system. I agree with Peter that the market value attached to the university graduate being employed in the corporate sector is in fact probably the most direct link, albeit indirect, that you could establish for the corporate contribution.

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**Mr Gary Wilson (Kingston and The Islands):** I'd like to return to the question of tuition and, just to be clear about this, whether you see deregulation then of tuition at universities so that in fact the university could charge whatever it wants per program.

**Dr George:** There are a number of dimensions to this. The first dimension I would reiterate, because it is an opportunity to do so, is that the university system, in order to provide for accessibility and a high quality of education, requires significant additional revenues. It's quite clear to us that for the immediate future those additional revenues will not come through transfer payments. Our other principle source of revenue is tuition fee revenue, so one of our interests in income-contingent approaches to student assistance is certainly to provide additional revenues to the university system.

Second, as an economist, it's my own personal view that tuition fees should attempt to capture a greater share of the private benefits or rents that accrue to individuals who invest in higher education. In my view tuition fees are lower than the appropriate fraction of those expected future earnings.

Third, I believe as a result that one should look at different fields or disciplines in terms of their expected future profitability to the students who invest in them. There is a significant difference in the market attraction, and hence the market yield, of fields that one can study at university. I think a greater reflection of those market differentials in tuitions fees would be appropriate and would be efficient.

**Mr Gary Wilson:** The next thing, then, I'm interested in is, do you see some kind of grant system that would be in place to make sure there are enough students in the kinds of programs that we as a society think we'll need?

**Dr George:** I think that's an extremely important point and that's why at the top of page 4 I do allow for the fact that some student assistance programs would remain in place and could be targeted to underrepresented groups. I think the one thing I'm conscious of, and I think many people are conscious of, is that students from relatively disadvantaged backgrounds, whether economically or educationally, often come from circumstances where the act of investment, especially the act of investment in something as nebulous as higher education, with an uncertain future return, or perceptions that the return is uncertain, might need special encouragement to participate in higher education. It may be that for such students a loan program related to income-contingent repayment is something just too abstract to be persuasive and that this might effect barriers to access.

It's my own view that what we must do in a well-designed system is to mitigate against the possibilities of economic barriers to access. Those economic barriers to access include the sort of circumstances within which

students from disadvantaged backgrounds are making the higher education decision. I could see, for example, that part of the student aid program that remains in government hands might be tailored to providing grants to students from such backgrounds to try to stimulate participation rates in university-level and college-level education, to be, if you like, a kind of seed money to increase participation rates, because I think that for uninformed consumers there will still be a possible barrier to the loans system.

I think, of course, if such a system were introduced, it would be important to have an educational program to explain the nature of the program to possible customers for it, but as an economist, I know that the market works. Especially if the interest payments are subsidized officially, there will be a lot of people who will be anxious to participate in this program.

**Mr Daigeler:** Thank you for coming to appear before the committee and presenting your views. Let me ask, first of all, is the income-contingency repayment proposal now the official policy of COU with regard to tuition assistance? Is that the main plank that you're proposing to the government at the present time?

**Dr George:** This is our major initiative with respect to student assistance, yes.

**Mr Daigeler:** You touched on this somewhat, but frankly I was still somewhat surprised how somewhat suddenly this idea seemed to appear. What were the reasons for this particular proposal to become all of a sudden the major focus of your requests of government?

**Dr George:** I'd say two things, I think. First of all, this is not our first initiative on the tuition fees side. As you will recall, a year ago COU put forward a recovery plan in which there would be a partnership among government, the universities, students and the corporate sector to contribute additional funding to universities to help restore the quality of university education and provide for greater accessibility. So we have been active in considering alternative ways of improving the university funding situation for some time.

Second, in this form, income contingency is a relatively new phenomenon. It was recently introduced into Australia. There is a similar kind of program in Sweden, but most of the programs that exist in the world are not contingent programs. There are other models, of course, like graduate taxes or education taxes on the corporate sector and so forth, but because of our studies with the assistance of Dr Stager we have come to embrace income contingency as an equitable and efficient way of introducing tuition fee increases.

I would say that our enthusiasm has grown as we have come to understand the concept better and as our simulation studies have built upon our survey of the terrain, as it were.

**Mr Daigeler:** So far, at least, I haven't sensed that enthusiasm on the part of the government. Personally I'm somewhat glad that the enthusiasm is not that strong, at least not yet, because I do have some questions about this particular idea. But I appreciate the situation you are coming from and that certainly you have urgent financial needs. I think you're to be congratulated for looking for



new solutions and innovative ideas. Certainly I think this is an option that has to be looked at. That's the purpose of our work here: to get a better assessment of the merits of this particular proposal.

Let me finally ask, before I pass it on to my colleague: Are any of the other Canadian provinces presently looking at an income contingency idea? Are they even studying it? Is it on the horizon for any of the other provinces?

**Mr DesRosiers:** We're not aware of any serious initiative in any other jurisdiction. There have been some discussions at the federal level. Ultimately I think it would be to everyone's advantage if this notion could be introduced at the federal level, but from our perspective there have been so many hurdles to overcome in Ontario that we didn't want to complicate the issue by taking it to the federal level without first ensuring we had wide support for it within Ontario. But I think ultimately it would be desirable to see this as a national program.

**The Chair:** Time for a very short question.

**Mrs Fawcett:** I'm interested that quite a few constituents ask why our universities don't offer athletic scholarships. I notice there's a policy prohibiting universities from giving athletic scholarships. I just wonder, why and what can I tell them, and are you considering any form of that kind of help?

**Dr George:** I think the simple answer to that, Ms Fawcett, is that we look at the experience in the United States. While there are some programs where athletic scholarships and bursaries are administered with integrity and with respect for the academic programs, we see reports of many institutions where the opposite is true. I think there is a great deal of concern that the latter model is the one that prevails, that our basic philosophy of education in Ontario—

**Mrs Fawcett:** We always do things better than the States, though.

**Dr George:** No, but our basic philosophy of education is that the athlete is a student first. We emphasize "student athlete."

**Mrs Fawcett:** I agree, but if they happen to have the athletic ability that could help out, then the two very often can—

**Dr George:** In ideal circumstances, but that is the exception to the rule in the United States, I'm afraid.

**The Chair:** I'm afraid we'll have to leave that question unanswered. The ultimate is that I'm afraid our time is up, but I want to thank you very much for coming. If there is anything else that you wish to send to us as our hearings go on, please do so.

**Dr George:** Thank you very much for the opportunity.

#### UNIVERSITY OF TORONTO

**The Chair:** I'd like now to call the president of the University of Toronto and the assistant vice-president. Welcome to the committee. If you would be good enough to introduce yourself and then proceed with your presentation, we'll have a full half-hour from when you begin. That clock is a little strange.

**Mr White:** Mr Chair, I'm wondering if I should declare a conflict of interest as I'm on the faculty at the university.

**The Chair:** I think that by declaring it we'll be able to handle that.

**Mr Robert Prichard:** Colleagues and distinguished colleague, my name is Robert Prichard. I work as a professor of law and as president of the University of Toronto. My colleague is Dr Daniel Lang, who is the assistant vice-president, planning, and registrar for the University of Toronto. Under the jurisdiction of the registrar lies the office of student awards and admissions. Therefore, that's the office responsible for financial aid, grants, loans and similar programs.

I'm very grateful for your invitation, although I note that it came on short notice in the absence of someone else's ability to appear, with the result that I do not have a written presentation. I have given the secretary my notes and would be happy to provide any documentation subsequently if that would be of assistance to the committee. I wasn't here for the earlier presentations. If there's some risk of repetition in my remarks, please, Mr Chairman, don't hesitate to stop me on some point if it's not helpful to your consideration.

I've read the material that gave rise to this committee's hearings and I should just state at the outset that I'm personally not familiar with any specific proposal at this time from the government with respect to the substitution of a loan-only program in lieu of the current loan and grant program under OSAP. I'm aware there have been various proposals floating around in committees, but I'm not in a position to respond to any particular proposal because I don't know what proposal I would be responding to. So I plan to speak at the level of principle rather than to a particular proposal that's before us for consideration.

I want to make four points by way of context. Mr Lessard, Mr Daigeler and Ms Cunningham, all of whom have been good enough to pay a good deal of attention to these issues in various committees, will have heard me before on these points of context, but I think it is important to set the context of these discussions with one minute on each.

The first point is simply the centrality of education to the future of the province of Ontario and to Canada, both in terms of social justice and economic growth. Within that it is my view that higher education, post-secondary education, can play a critically important role and a role of leadership for the whole system of education.

Second, it continues to be the case, regrettably, that the resources available for post-secondary education in Ontario are by every measure I know significantly inadequate. I think it is a source of continuing embarrassment for the province that Ontario's support for post-secondary education is so poor relative to the other provinces of Canada, much less the 50 states to the south of Canada.

This is a difficult time in our province's history in terms of the fiscal situation. It is therefore difficult for people like myself who represent publicly supported institutions to talk about underfunding and inadequate resources because I know it's difficult in the province and



we run the risk of sounding as though we're whining and simply complaining. I say it because I feel duty-bound to continue to draw to your attention the inadequacy of the resources that have been dedicated over a 20-year period to higher education in Ontario. I don't think it serves us well and I think it's important every time we appear to remind members of the Legislature of Ontario of the current situation.

The current situation has Ontario last out of 10 provinces in Canada with respect to university operating expenses as a percentage of the provincial gross domestic product. We in Ontario are last of the 10 Canadian provinces. In terms of the usual measures, we come ninth out of 10 provinces in Canada. If you look at provincial operating grants per student, provincial operating grants and fees per student and total operating income per student in Ontario's universities, we are ninth out of 10 in Canada. It makes no sense for Ontario to continue to languish in this position, particularly when the government and the opposition parties have all made clear how central they believe strengthening education will be to strengthening economic growth in Canada. If we allow the current situation to persist, it inevitably will retard the development and renewal of Ontario's economy.

The third point, by way of context, relates to the student share. It is the case in Ontario that the share of the cost of a university education borne by students is at a historic low point, and it is the position of the University of Toronto that this share should be increased. At present, the share borne by students is less than 20% of the cost of a university education. In the University of Toronto it is about 18.5%. This is low compared to elsewhere in Canada, low compared to elsewhere in North America, low by historical standards and, as the brief from the Council of Ontario Universities argued, I think it is low relative to the private benefit of university attendance enjoyed by our graduates. I think the private benefits in terms of expected income, expected security of employment, expected opportunities and access more broadly in the community all justify a movement back up in the student share, in the size of the student contribution to the cost of his or her education.

There is no magic as to the appropriate student share, but it remains my view that a figure of 25% of the cost of university education to be borne by the student would be a fair and reasonable goal for us to take in the first instance. When I say that the University of Toronto's position supports this and supports the particular of 25%, that reflects a unanimous vote of the governing council of the University of Toronto, a university that has a unicameral system of governance. Students, faculty, administrative staff, alumni and government appointees are represented on a 50-person council. The position I put to you was supported unanimously by the members of that council reflecting all of those constituencies—students, staff, faculty, alumni and government appointees.

The fourth and final point of context I want to put to you is that, as they are for this committee, access to post-secondary education and equity of access should be a central concern of yours. As a matter of both social justice and economic growth, we must be particularly attentive to ensuring

equity of access to our institutions, particularly given the importance of opportunity that attendance at university represents.

The key of course to access is adequate student aid. The current student aid programs in Ontario are not adequate to the task. Again, I don't believe there's any difference of view among the three parties represented here on the proposition that financial aid is the key and that the current aid programs are inadequate. The University of Toronto strongly, unequivocally supports reform of student aid programs. In saying that I should emphasize critically the difference between the importance of financial aid and the magnitude of tuition fees. The issue of access and equity of access to our universities is an issue of financial aid. It is not in the first instance an issue of the magnitude of tuition fees.

As I'm fond of saying in speeches I give across the province, Harvard University is in many senses more accessible than the University of Toronto, even though Harvard University has tuition fees about 10 times the level at the University of Toronto. The difference between the two universities in terms of access is as follows.

Both Harvard and Toronto admit students regardless of need, blind of their need. Having admitted them, though, Harvard University then sits down and says: "We will ensure you can attend Harvard University regardless of your financial means. We will put together a package of financial aid that will permit you, regardless of your means, to attend," even though the starting point is about C\$15,000 in tuition fees. Once admitted to the University of Toronto, if a student says, "I need help," we say: "Go speak to OSAP. Make an application to OSAP." The limits of OSAP are the limits of the assistance on the whole that can be provided. We have some supplementary bursary programs and some supplementary work programs for our students, but on the whole we can do less at the University of Toronto to assist access to our institution than Harvard University does for its students, despite the fact, as I say, that tuition fees are tenfold at Harvard compared to Toronto.

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The issue before you, properly I think, is the issue of reform of the financial aid programs for our students. The narrow issue then, as I understand it, is whether it would make sense to move to a system that more heavily emphasizes loans in place of the current system, which has a blend of grants and loans to students. As a general matter, the general position I want to put to you today is that a system that more heavily emphasizes loans is more appropriate, that loans are more appropriate than grants so long as the terms of repayment of the loans are sensitive to equity of access.

Our basic position then will be that loans are more appropriate than grants in designing a student aid package, so long as the terms of repayment of those loans are sensitive to equity of access to our universities. Why do I take that position? In simplest terms, it's because it is possible to get more bang for the dollar by using loans than grants. We can provide more aid to the students of Ontario principally through using loans than we can through a system that

the province of Ontario is prepared to make to financial aid for our students, we can stretch that aid further and increase equity of access more by emphasizing loans instead of grants. We can stretch those dollars that are available by using loans.

We can make more loans and we can make larger loans by focusing the resources on loans than spending them on grants. Loans permit the recycling of the funds to the benefit of future students instead of the simple expenditure of those funds on current students through grants. That is, the government commitment is to servicing of temporary loans and not the making of grants when we stretch the dollars by putting them principally into a loan portfolio for our students.

Beyond simply stretching the resources, the second reason why we prefer loans to grants is that on the whole it's our judgement that the current system of grants is not sufficiently focused on those students in the most extreme need. That is, we support providing grants to those in the most extreme need, the most disadvantaged students. But our assessment of the current system would be that it is not as focused as it would need to be to fit within the principle of extreme need for students receiving grants.

The importance of this shift in emphasis to loans in order to stretch the available aid package to our students is particularly urgent now. As I said earlier, I think there is widespread consensus that the current financial aid available for students is inadequate today and will continue to be inadequate with the necessary increases in tuition fees that will be essential in order to continue to keep our universities even standing still in terms of resources through this difficult period in Ontario's fiscal history.

It is our position then, that the emphasis on loans should be there in order to maximize the effectiveness of the financial aid budget that is available at present and to maximize the effectiveness of any additions to that financial aid budget that might be proposed by the government. That's the general principle. Are there exceptions? Yes. We would anticipate there would be exceptions made for those most disadvantaged and most underrepresented groups of students. That is, in those cases where groups of students have been historically very underrepresented or where there's extreme financial need, we would support the provision of grants to them in order to overcome those long-standing barriers to participation.

Similarly, in a system of loans it will be necessary on occasion to forgive loans. We would imagine the forgiveness of loans in cases of extreme hardship. Forgiveness of loans is very much like the provision of a grant. That's our general position. But I should make it all conditional, and it's essential on the scheme of repayment of these loans. It is essential that the repayment schedule for student loans be designed to achieve two goals: first, to maximize equity of access to universities in Ontario, and second, to minimize the distortion of career choices by our students after they graduate.

That latter point is worth emphasizing, I believe. When our students graduate it would be a shame if their choice among careers was driven to an undue extent by financial considerations of the need to repay their loans. I think it's

important that students feel free to continue to take jobs of public service, of service to their community, even where those jobs will pay a relatively lower salary or wage.

It's for that combination of reasons, equity of access and not distorting career choices for our students, that we support strongly the development of income-contingent repayment of loans that are made available to students for financial aid. I will not go into the detail that has been covered by the Council of Ontario Universities submission. I'd prefer to respond to your questions, Mr Chairman, rather than do that, but let me simply say that our position in favour of loans in preference to grants is conditional upon the introduction of appropriate income-contingent repayment plans for those loans in order to continue to emphasize what should be your central preoccupation: equity of access to our institutions, given that access to our institutions is such an important privilege for those that enjoy it.

In conclusion, Mr Chairman, my advice to your committee, and through you to the government of Ontario, is to urge that the most urgent and concentrated attention be given to the development and implementation of an income-contingent repayment plan that would substantially increase student loan opportunities.

We would also urge that your committee understand and accept that the current situation in Ontario is really not acceptable, that the status quo is not an option that should be considered by this committee, and that the combination we face now of inadequate resources available to our universities and inadequate student aid being available to our students is leading to a situation that promotes neither equity of access nor the sort of high-quality, post-secondary institutions that Ontario will require to participate fully in the process of economic renewal.

Mr Chairman, those are my comments. Unless my colleague tells me I've said something wrong, I suggest we be quiet and take your questions.

**Mr Tony Martin (Sault Ste Marie):** You certainly present some interesting information and an exciting perspective. I think you put this whole thing in quite clear perspective.

It seems to me from listening to you and the group before, and particularly the students initially, that what we have here is a question of how we get enough money into the system to run our universities in a way that provides opportunity for people to participate fully and get the education they need, how we make that most accessible to a larger group of people, and who in fact ends up paying for that. It doesn't matter, it seems, how much that costs. It probably comes from a limited few sources, and one of them certainly is government, but ultimately, you know, money flows from people and communities and the government.

You mentioned that Harvard had a package it could share with its students, and it obviously included more than just government assistance and the possibility of work around the university and some of the things that you've mentioned. I'd be interested in hearing from you what else makes up those packages. I think probably there's a fair contribution to the university system in the States by the corporate sector by way of bursaries and that kind of thing.



I was wondering how we might entice our corporate sector to be more interested, because it obviously benefits from a good-quality product from the university system so that it might continue to be on the cutting edge of its particular industry. I guess there are two questions there: What's in the package at Harvard and how can we entice that sector to participate more fully, and is there some other way of generating some dollars that might be available to the system other than what we have now?

Again, the students this afternoon talked about the fact that in the present system a group that reaps a fair profit on what's happening, it seems, is the banking institutions because of the interest paid on the money that's borrowed. Is there some way of maybe taking that interest and putting it in the loop so that it's used more directly for education as opposed to shoring up the profit margin of the banking institutions?

1700

**Mr Prichard:** Thank you very much for those questions. On the specific of the composition of a financial aid package at a major private American university—and I use the word “private” because there'll be a large distinction between Harvard on the one hand and Berkeley or UCLA as a great public institution on the other—it would be made up of a combination of loans; work opportunities for the student on campus or close to the campus; in extreme cases, some grant, some forgiveness of a portion of the tuition; and in some cases provision from a private scholarship or bursary funds that had been donated to the campus by individuals or organizations. A package is crafted to take account of the student's particular circumstances, and family circumstances where family might be involved in the support as well.

How much of that money is—to use your word—corporate support? Directly, I would guess, very little of that money would be corporate in the sense of being directly provided by corporations. Indirectly, of course, the major American research universities, like our university, enjoy substantial private support for many of our activities, and indirectly that helps meet the cost of the institution. But in terms of the financial aid package itself, I expect there would be a terribly modest contribution of corporate funding to that package even at the major private universities.

On the second question, “Can we entice more private sector support for our universities?” I think the answer is yes, and I think we are obliged to do everything we can in our power to attract it. I think the record has significantly improved from what it was 10 or 15 years ago, and if we work hard at it we can be optimistic that 10 or 15 years from now there will be further major increases in the level of private support from our alumni, from corporations, and from members of the community able to engage in significant philanthropy.

I think the government of Ontario could significantly assist that effort through appropriate incentives for private support for universities. As you're probably aware, in British Columbia every dollar of money given privately to the university is matched by the government of British Columbia, which means every donor gets a double bang for the

contribution. In Alberta, for a period, for every dollar given by private interest, \$3 were given by the government on a matching basis.

The Council of Ontario Universities proposed prior to the 1990 election that a similar program be brought forward in Ontario. It hasn't yet seen the light of day, but I would strongly endorse that, because if we can harness a greater partnership of private sector with alumni in the universities, I think it would be absolutely terrific, and would make the universities more successful and more accountable and with a stronger sense of partnership. I strongly endorse it and I think it can be done. We could use some help.

On the third question, “Are there other ways to attract dollars into the university system to ease the problem?” I think your introductory remarks squarely put the difficulty we face. I think the budget document presented last week by the Treasurer offers a real possibility on one side, which is financing of capital expenditures in the universities along with hospitals and other institutions.

As you know, the Treasurer has proposed moving to a debt financing of capital expenditures in our sector, and I believe that's entirely appropriate. The University of Toronto has strongly supported that for two years, and I hope it is proceeded with forthwith. If that is done, it would free up some funds for operating purposes and help narrow the gap we now face, so I think that's an extremely desirable development.

Your very specific question at the end was, “What about banks and corporate profits from the student aid packages?” I would urge, if you are able to develop an income-contingent repayment scheme, that you give the most serious consideration to having that financed in the private sector, and I think you'll find highly competitive market behaviour in the private sector competing for that work. I think that will bid out any potential surplus that might be enjoyed at present, and this would be the most efficient way to provide those loans. It would come not in the form of direct support, but it would be by bidding down the price of that student aid that we would best advantage, I think, our students and the institutions and the province, which ultimately will have to stand behind that debt.

I would urge that at least in the first instance you examine the possibility of partnership with the private sector. Our early soundings are that the private sector would warmly welcome such a partnership. I think the prices, especially in these times, would be highly competitive and would advantage all of us.

**Mr Daigeler:** Thank you, Professor Prichard, for appearing before the committee on a subject that's obviously dear to your heart and dear to the heart of the whole university community. I don't know whether you had a chance to read an article that appeared in *Time* magazine about three weeks ago or something like that, which I found a quite interesting description of the problems the American universities and colleges are experiencing.

That article made reference to the tuition policies of the American universities and that they were significantly higher than ours, and also that they increased their tuition fees significantly. Despite all that, they're still basically



facing the same challenges Canadian universities are experiencing at the same time. In fact, it was mentioned in the article that tuition fee increases were a kind of vicious circle, because they increased them and then the universities found out they had to increase the budget in order to support some of the students who otherwise couldn't fully participate; in order to make up for that shortfall they then had to increase the tuition fees again, and in the end the situation was worse than in the beginning.

Frankly, I thought the gist of the whole series of articles—because it was a series—was that the universities in the US and I would say perhaps by implication the Canadian universities, Ontario universities included, have to look deeper than just seeking the solution in increases in funding, increases in tuition fees in particular. Have you had an opportunity to read that article? What was your reaction to it and to my comments or my summary? I'm obviously highlighting certain things. What is your reaction?

**Mr Prichard:** I read all the articles in the special issue dealing with universities. It won't surprise you that I'd caution you from relying too heavily on Time magazine as a source of major public policy analysis and advice, but it does provide a context. It provides a broad picture, but it is at best a broad-brush picture.

Three comments: First, on the US comparison, let me put it in context for you. There's an organization called the Association of American Universities, which is the 50 leading private and public universities in the United States; it's Harvard, Yale and Princeton, but it's also Berkeley, Michigan, UCLA. There are two Canadian members of that organization: McGill and Toronto. In fact, I spend quite a lot of time with that group of 50 presidents plus the two Canadians, and we talk about this financial situation. It is the case that for the first time in 20 years the major American universities are feeling some financial pinch with the slowing down, and it is real and it's significant for them. Time magazine is a reflection of that reality of the past 12 to 24 months in the American universities.

That said, the comparisons are staggering; that is, what they believe is hardship has nothing to do with the Ontario situation. The comparison, as you know, between the public University of California and the University of Toronto is that at Berkeley or UCLA there is \$2 for every \$1 available at the University of Toronto to teach our students: same students, same needs, twice the resources available at the University of California than at the University of Toronto despite the slowdown in the American situation.

If we go to Stanford or Yale or Harvard, we're talking \$5 or \$6 for every \$1 available at the University of Toronto. If we go just to the average American state public doctoral university and compare it with the University of Toronto—this is Tennessee, Alabama, Georgia and Arkansas as well as California, New York and Pennsylvania—40% more per student is available to educate the students. Yes, the American situation is tougher now than it was 24 months ago, but the Canadian situation, the Ontario situation, is radically different in resources available for our students than those universities, radically different. Our students, in my view, are significantly and systemically

deprived relative to those students because of the funding situation.

**1710**

Second is the point about gross versus net: It is the case as you raise tuition fees that you have to put more and more dollars back into financial aid. In Ontario we believe the amount that needs to be put back into student aid as a percentage of the tuition fee increase is about 20 to 25 cents on the dollar, so we have a long way to go before the amount of extra money that needs to be put into financial aid begins to become an undue tax on the new tuition fee revenues. If our tuition was at \$15,000 instead of \$1,500 or \$1,800, then the number would be higher.

At some private institutions, you're right that the net revenues from increasing tuition have become quite modest. But in the Ontario, Canadian, in the American public situation, the Time magazine article I don't believe provides support for the proposition that the net effect is modest. The net effect of tuition fee increases, even putting the money back into financial aid, is still a very large improvement in the university situation.

As to your third question, should we be looking deeper at ourselves, of course we should. I'd be happy to share with you my most recent document from the university, looking more deeply into itself as to: How can we focus more squarely on our mission to be as effective as possible, to be as imaginative as possible in the use of resources available to us? Of course that's our obligation at each of our universities, and I believe we're fulfilling that to a significant extent. That said, we cannot deny the reality that through 20 years of public policy in this province we have left Ontario at the bottom in Canada, way behind our major North American competitors, in a world that is highly interdependent and highly competitive. It's an intolerable situation and, in my view, it's a mistaken situation for Ontario.

**Mr Jim Wilson:** Thank you, President Prichard and Dr Lang, for appearing today. I wanted to put on the record that I did serve on your governing council for the years 1984 to 1985.

**The Chair:** Is that the reason for the problem?

**Mr Jim Wilson:** I don't know that I have to declare conflict from that long ago.

You did mention that really the experience in Ontario is that we have to send our students off to OSAP. You also just mentioned that perhaps with the increase from 18% to 25% in tuition fees some of that money would be recycled back in terms of grants or improving access, I gather. You mentioned 25 cents on the dollar. Can you explain that a little further? Second, would that be administered by the university? Are you looking to administer and recycle that money yourselves?

**Mr Prichard:** We're easy on that question, the precise question. The general proposition is that we have always advanced—I shouldn't say always. In recent years the University of Toronto has advanced more and more precisely the need to increase tuition fees. We have always made that contingent upon increasing student aid simultaneously to make sure that access is at least maintained. My own

position is we can do better than maintain access: We can improve equity of access while increasing tuition fees.

The Council of Ontario Universities plan for recovery proposed just that. The COU plan for recovery said that for every dollar that was raised we should put aside 30 cents for increased equity of access to the universities. We took 30 cents to be on the high side, knowing, looking backwards, that about 20 cents on the dollar is required. We said, "Let's put it at 30 cents and let's put it into genuinely increasing equity of access." Whether that's done through a university-by-university supplementary financial aid program, whether it's done by increases to OSAP, whether it's a third government-driven scheme—we're agnostic; that is, we want to be partners with the government in working out what makes the most sense for the government and for our students. We have no fixed position going into that discussion.

We're happy to help in any way we can. If we can help more by doing it ourselves, we'll do that. If we can help more by being part of a province-wide scheme, we want to do that. My point simply is that if someone is committed to social justice, to genuine progressivity of access, in my view higher tuition and higher student aid is a better mix, a more socially just mix, than the current situation. We want to be full partners in developing that as best we can.

**Mr Jim Wilson:** I just want to do a quick supplementary because I know Ms Cunningham wants to ask a question. But has SAC taken a position one way or the other on your proposal?

**Mr Prichard:** SAC has, and I'd be happy—

**The Chair:** For the record, could we identify SAC?

**Mr Prichard:** I'm sorry. The Students' Administrative Council is the student government organization representing full-time undergraduate students. We have three student bodies, graduate students, part-time students and undergraduate students, and SAC represents 32,000 students, I believe.

The SAC position has varied a little bit over time, over the last two or three years, depending on elections and pushes and shoves, and I'd prefer to get a letter filed with you from the current president; she was just elected. As I understand their position—but I'd be prepared to stand corrected—the SAC position has consistently been that an appropriate blend of improved student aid and increased tuition is consistent with the policies that SAC has professed. SAC has distanced itself from the OFS position and has not joined OFS in our campus: Our campus took another referendum this spring, and the students rejected, by a meaningful margin, membership in the Ontario Federation of Students. The SAC position has been closer to the position taken now by a number of university student groups favouring increased aid and increased tuition fees.

**The Chair:** A short final question, Ms Cunningham.

**Mrs Cunningham:** In following along the lines of Mr Martin's questions about how we can be helpful, is the crown corporation legislation that we're looking forward to, which provides tax relief to donors, something the University of Toronto would like to see soon? Have you got people on waiting lists to give you money? Is this an incentive that the

government should be pushing along quickly? Perhaps you could just update us on your point of view.

**Mr Prichard:** This legislation would treat universities as the crown for purposes of charitable gifts, which would make possible large gifts by individuals and other organizations. I think it would be ideal to have three-party agreement in the next week to get that legislation done within two weeks. All three parties have said they favour it. It is absolutely in the interests of Ontario, and the urgency is that, again, other provinces—Alberta, British Columbia—have this legislation, and large gifts are being made from Ontario to British Columbia and to Alberta because Ontario doesn't have this legislation in place. We are simply sending money out of the province to those universities in Alberta and British Columbia, and the benefactors are telling us, "Until Ontario has this legislation, we won't make these gifts." If your party, Ms Cunningham, Mr Daigeler, your party, Mr Lessard, your party, could get together and get this done by next week, it is a measurable, doable improvement—

**Mrs Cunningham:** Decks cleared. Decks cleared publicly.

**Mr Prichard:** It has been sitting and sitting and sitting. It can be done. It can be done quickly. It can be done with no measurable cost to our fiscal situation in Ontario, and it would be the clearest signal that all three parties do want to make a difference and do want to have a partnership in the province.

**The Chair:** On that very positive note, I'll bring this part of our session to a close. I want to thank you both for coming and for a number of very interesting suggestions you made.

**Mr Prichard:** Thank you very much, sir.

#### ONTARIO CONFEDERATION OF UNIVERSITY FACULTY ASSOCIATIONS

**The Chair:** I now call the representatives of the Ontario Confederation of University Faculty Associations. While they are coming, I just note to members of the committee that we're running about 15 minutes behind. I'm sure that as we pose our questions we'll keep that in mind, but the Chair will not see the clock, so everyone will get half an hour.

I ask the representatives from the faculty associations if they would be good enough to identify themselves and then please begin.

**Dr William Graham:** Thank you very much, Mr Chairman. My name is Bill Graham. I am president of the Ontario Confederation of University Faculty Associations, and I am a faculty member at the University of Toronto. With me is Marion Perrin, who is the executive director of OCUFA, and we also have two of our professional staff in the audience, Glen Brown and Heather Webster.

I want to say at the outset that we're very pleased to be invited to the committee, and we thank you very much for providing us with this opportunity to speak on behalf of our students. University teachers across Canada and particularly in Ontario, from our point of view, of course, are not a group that has a self-interest in any kind of financial or political way in the funding of students and students'



assistance; that is, we don't stand to gain directly ourselves financially or politically. However, our interest is strictly on the side of being able to enjoy and to be able to educate and deal with and work with the best students, the best young people across the province.

1720

We have a special interest in this sense to ensure that those who gain entry to our universities do so because of an ability to learn, and a desire, rather than an ability to pay, and I think unfortunately the present situation in which we find ourselves is based primarily on an ability to pay. I certainly share the views of the president of the University of Toronto that we don't want to see students excluded on the ability to pay.

That said, there are some things that are shared across Canada by university teachers, university teachers' organizations and associations such as associations at particular universities, the provincial associations and the national association, the Canadian Association of University Teachers. Those are an opposition to increased tuition fees and also an opposition to income-contingent repayment loan schemes. These are two items on which your democratically elected voice of faculty across Ontario and across Canada has consistently been 100% clear. Our passion for higher education fuels our belief that access to educational resources must not be based on ability to pay, and therefore we recommend that the present position has to be changed. The status quo cannot continue to go on.

This principle becomes even more crucial as our society's challenges become more complex and as our economy relies increasingly on knowledge and information. Studies as diverse as the Michael Porter study on the Canadian economy and the Ontario Premier's Council report, *People and Skills in the New Global Economy*, have emphasized the higher education needs of the future workforce. One study concluded that 40% of all new jobs created between now and the year 2000 will require at least 16 years of education, including post-secondary education.

We believe therefore that the primary goal of government policy cannot be to preserve the wealth, class, race and gender barriers which exist in our universities in too many cases, making education a kind of scarce resource, but must be to remove barriers to participation, particularly for groups that have been traditionally underrepresented, for working-class students, for students who are entering education and post-secondary education at an older age and for our visible minorities. We also believe that public investment in a healthy, accessible post-secondary education system is critical to the social and economic wellbeing of the province. We approach the question of student assistance with the objective of providing access to higher education and a belief that the funds thus spent are wisely invested.

We are alarmed at the tone of the current discussions within the government of Ontario that raise the possibility of further reducing the grant portion of OSAP. A shift in student aid from grants to loans would be precisely the wrong move at precisely the wrong time and would significantly affect the access of working people, of people

who are older and of minorities. We oppose any policy which would shift the burden of financing post-secondary education further on to students. We believe that education is a societal concern and should be publicly funded.

We have therefore called for a reduction and eventual elimination of user fees for post-secondary education, and this policy is shared by many groups concerned with social equity, such as the Canadian Association of University Teachers, the Ontario Federation of Students, the Ontario Federation of Labour and the New Democratic Party. It is also a policy consistent with the 1976 United Nations International Covenant on Economic, Social and Cultural Rights, to which Canada is a signatory. The covenant states that "higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education."

The benefit to post-secondary studies and university studies is not simply the benefit to the individual alone. In fact, in the case of some individuals of minorities, studies in the United States have shown that upon graduation, for example, African-American students earn 17% less than white students. There is a benefit of course to the individuals from university studies, but that's not the entire benefit. There's also a corporate and business benefit to university education, post-secondary education, and that is the highly trained and skilled working force that comes out of our institutions of higher learning and then is hired by our corporate and business partners.

There is an immense benefit to society. I believe that funding post-secondary education is the biggest tax break going for the citizens of Ontario. They get more from their universities per dollar invested than they do from almost any other resource in this province.

A shift from student aid grants to loans would without doubt affect access to post-secondary education. Students are already graduating with debt loads ranging from \$15,000 to \$23,000, requiring payments of up to 15% of their starting salaries. Any increase in student debt expectations would undermine access for non-wealthy students.

Economically disadvantaged people are understandably wary of incurring a large debt load. This is particularly true during recessionary times and when current student and parental earnings are down and future job prospects uncertain. I think you must have seen studies that even middle-class earnings are down from what they were some time ago.

What happens to student assistance programs when the grant portion is reduced in proportion to loans? The experience with minorities in the United States provides very good evidence. It is a good laboratory. I recommend your studying the experience in the United States of moving from a basically grant-based student aid system to much more of a student loan system.

The American Council on Education showed that student aid "had a good deal to do with the upswing in college participation by African-Americans" in the 1970s. By 1976 the proportion of blacks aged 18 to 24 enrolling in higher education had risen to 25%, just 4 percentage points less than the whites' enrolment rate of 27%, but by 1980



the enrolment rate of young African-Americans had fallen to 19%, according to the National Center for Education Statistics.

What happened? Why did this happen? Harvard Professor Charles Willie wrote two very important policy studies in 1991 showing that financial aid programs to racial and ethnic minorities as well as to poor and working class people in the early 1970s emphasized grants over loans. This changed in 1978 to place more emphasis on loans over grants. As a consequence the proportion of African-Americans and poor white university students in the 1980s dropped.

I believe the same thing would happen here, namely, if we moved from a grant and loan system to a loan-only or substantially loan system, we would experience the same kind of results, simply further making our education inequitable and freezing out our minorities and working people, and also our older students who are now beginning to try to make some access to post-secondary.

1730

The other thing I want to mention is that I was at a conference in Chicago of the American Association for Higher Education, which is an enormous North American conference consisting of administrators, college teachers and students from basically the United States, but also from Canada. One of the speakers there, Louis Harris, may be known to you as a major pollster. He was speaking on the condition of post-secondary education in North America. He said that we are grouping education around exclusion instead of inclusion and that we cannot use public funds to practise exclusion. We must do something, he said, to make post-secondary education free or easily within the reach of all our citizens who have the ability to make use of it.

Some have proposed that a loan repayment policy geared to income would ameliorate the access problems caused by inadequate grants. The income-contingent loan repayment proposal is often peddled as a means by which dramatic fee increases could be excused. We strongly reject the argument that income-contingent repayment plans would make higher student debt or higher student fees any more tolerable. Increased debt expectations will deter students from low-income backgrounds, regardless of the niceties of repayment schedules. This is especially so given the reality that repayment variables—interest charges, repayment rates and possible loan forgiveness—will be amended to suit the financial constraints of the government of the day.

The more sinister aspect of the income-contingent loan repayment plans is the underlying principle that students should assume more of the financial burden for post-secondary education. Should the principle that higher user fees and higher debt loads are tolerable if payment is deferred be established, we wonder where it could lead. Would the plan's advocates suggest a similar approach to the funding problems of primary and secondary education? What percentage of education costs should students bear?

Beyond questions of principle and of access, the plan may be financially unfeasible. In a 1991 study of student loans commissioned by the Ontario Ministry of Colleges and Universities, Dr Peter Atherton of Brock University

concluded of the income-contingent loans: "For the province it would appear that little would be gained financially, at the cost of a possible loss of equity for the borrower." I am ashamed to say that the study by Dr Peter Atherton has been buried along with the late Dr Peter Atherton because it didn't give the kind of answer which some people wanted to hear. That was put on the back burner and another study was commissioned—we don't know at what kind of cost.

There are abstract arguments made by Professor David Stager, by Stuart Smith, by Rod Fraser and by the Council of Ontario Universities, most of which are both self-interested and short-sighted. It's as if these studies entered a time warp, talked about students wearing raccoon coats and swallowing goldfish, a different era, and did not address the serious need that our students face today. We don't have simply a wealthy group of 18- to 24-year-old students; we have a massive multicultural population out there to educate. We have older people coming back to post-secondary education in order to better improve their abilities to contribute to the welfare of the Ontario economy. This is an entirely different kind of situation and must be addressed with a new kind of funding resolve on the part of our government.

Rather than reducing student aid grants we believe that improvements in OSAP are necessary and long overdue. Key to the improvements will be a shift from loans to grants, not the other way around. We attach as appendix 2 other recommendations we have made toward OSAP improvements.

It is ironic that OSAP is in jeopardy while the Ontario government is embarking on a major labour training initiative. The implications could be alarming: that low-income, disadvantaged people, working people, would be channelled into limited skills training opportunities and discouraged from participation in universities, which would be accessible only by the wealthier. We believe this direction is short-sighted and inequitable. We believe that a public investment in student aid is an investment that provides high returns in social equity, economic recovery and cultural diversity.

We hope you will direct the Ontario government to strengthen, not weaken, our student assistance program.

**Mr Daigeler:** I guess we are pressed for time so I'll try to be brief. First of all, thank you for bringing forward a different approach to some of the previous presentations. I think that's the usefulness of a committee of this nature. You get the broad spectrum of views and a very thorough examination of the pluses and minuses.

I do accept the premise that the university administrators and presidents are coming from, and I think you are coming from that as well: the financial squeeze on the universities. I also accept the premise from which the Treasurer is coming: that Ontario's finances are just not in very good shape and, frankly, won't be in a while, and even if they improve there will be significant pressures from all kinds of areas.

I'm somewhat inclined to say that something has to give. The university presidents, in particular, have been saying, "What has to give is the tuition fees." I think that

has been a major focus for their policy approach for some time.

In your view, what do you think has to give, or do you feel it just has to be the Ontario government that has to give more and, by implication, the Ontario taxpayer?

**Dr Graham:** Of course the government of Ontario certainly faces a problem with regard to its budget. I think we all recognize that. The problem is: What should take priority? Where should our priorities as a society be in training our people—in preparing them to contribute to the future wealth and growth of this province, or in placing them in jeopardy and possibly on welfare rolls in the future?

There was a letter written by the chancellor of the City University of New York and published in the *Chronicle of Higher Education*, April 29, which says: "Do we want the 1990s to go down in history as the decade which abandoned public higher education?" It's a very interesting question, but I think it is the fundamental question: Where do we put our priorities?

There are some creative solutions that might be tried. I sit on the general advisory committee of the OSAP review committee. While the majority of the proceedings of that committee are not set and therefore it's not appropriate to make particular comments about where that particular study is, we do know that students are now asked to live on substantially less than welfare recipients.

Why is that so? Why couldn't the government, together with the other two parties, get together and say, "Let's redraft the welfare and the student assistance program so that at least students could be living on welfare"? They'd be a lot better off if they were living on welfare than living on OSAP. They're getting about \$127 a week on OSAP as opposed to \$167 or so on welfare. I think this is something that could be tried out.

The other thing is, of course, that we provide health care for people as a form of social assistance because we consider it to be a high priority, and we certainly all do. We should begin to treat post-secondary education in the same manner.

It used to be that years ago people in the upper classes went to universities and most of the captains of industry sort of pulled themselves up by the bootstraps; but that's, as I say, a kind of time warp era. We are now in a new world of global competitiveness where we need to have economic growth and be able to compete with the rest of the world. To do that we have to have trained and educated citizens capable of taking up the challenges of the future. To starve the system at its fundamental levels is not just shortsighted; it could lead to a real disaster.

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**Mr Jim Wilson:** I very much appreciate your presentation, particularly page 3 where you bring forward the 1991 US studies concerning access. I do want to share with you very briefly my experience on access.

The studies are interesting; they show that when loans went up and grants went down access for minority groups was decreased, but I want to tell you my own experience when I was on the Students' Administrative Council for four years at the University of Toronto. We were paid by

Toronto Board of Education to bring inner-city schools to the campus, grades 10 and 11, to introduce them to university as a viable option after graduation from high school.

We found in the Toronto Board of Education at that time—and it's a very limited four-year span in the history of things, I know—that each of those years the board would put money forward because they found that the problem wasn't necessarily money. A lot of these people, their fathers were bricklayers or well-paid tradespeople, and we found that women in minority groups would shame their fathers if they thought of university or college because the father didn't have it; the barriers were more cultural than money.

In fact, I can tell you that in four years money didn't come up in these tours. These kids were all well clothed. They were members of our population and we found the greatest barrier was that they never thought of university or college as a viable alternative after graduation.

Can you point me to studies that might shed some light on that or just your comments on that?

**Dr Graham:** I agree with you very much, actually. It reminds me of when I go to New York City every once in a while and walk down the streets. The traffic and parking situation on the streets of New York City are almost impossible and in some driveways or whatever you very often see a painted sign that says, "Don't even think of parking here," so you don't even think about it. I should preface this by stating my own background: I come from a working-class family that was not able to attend university.

**Mr Jim Wilson:** So do I.

**Dr Graham:** I had to work my way through and I'm not sure I could have made it in the present circumstances. I often think of our universities having a sign painted on them which is visible only to certain groups of people, and it says, "Don't even think about coming here." You can't see it when you're on the inside. I've even forgotten about that. A lot of people from the outside can't even see that.

**Mr Jim Wilson:** I am just wondering if we concentrate too much on the money and not enough on educating people.

**Dr Graham:** I think there are two aspects here. One is the financial viability of being able to support yourself. As I say, I'm not sure that I could do it in the present circumstances. The other is that the Ontario Confederation of University Faculty Associations has developed a very substantial educational equity policy, which we presented before the Employment Equity Commission. We would be happy to send you a copy of it. We certainly believe very strongly that the various educational sectors—primary, secondary, colleges and universities—have to work together along with government partnership to provide educational equity to all our people. I certainly agree with you to a large extent there.

**Mr Jim Wilson:** I think the financial element is one of the two features. One is cultural and one is financial.

**Mr White:** I recall when I was a student I used to go out and put on my best jacket and I'd go and check out Jaguars and Alfa Romeos. Money was never mentioned but it certainly was a barrier.



The issue you have brought up in terms of the publicly funded exclusivity is very significant, I think. We don't want to have the kind that we can't afford as a community, the desire for the kind of exclusivity that was traditional, that was certainly of the raccoon-coat and goldfish-chomping era. So, I would suggest, is OSAP and the whole loan program of a different era. We no longer have a system where you are primarily funding people at universities who are 18 to 22; you are funding people who have returned to university or who might be there only for one or two terms—and of course the community colleges. The numbers of people, the proportion of women who are recipients of OSAP loans, the proportion of moneys that go to older people and of course to colleges, have changed dramatically in the last 10 years, as I have seen from my own stats.

I would suggest, along with you, that this program needs to be changed dramatically. Of course we recognize that there are limitations in terms of funding; we want to be as effective as we can with the dollars we have. I am wondering: In addition to the kind of access funds that we have already put into place for non-traditional students, how would you suggest improving access on a non-cost level? You have a number of excellent suggestions, but I am wondering about a non-cost level or a dollar-for-dollar equal level.

**Dr Graham:** I am glad you've mentioned that. I was waiting the other day during the budget speech for the Treasurer to announce a minimum corporate tax. I really believe that if individuals are being asked to contribute to their own education and if society is being asked through the government to contribute to post-secondary education, then the businesses and corporations that profit from the services of the graduates should be contributing to post-secondary education.

I believe that could occur if our corporations and businesses were paying a fair and just tax. I'm not asking to soak the rich. I'm saying we need a fair tax, and let's also consider the notion of income-contingent repayment plans. These are very complicated, potentially very costly and unwieldy mechanisms, and the whole thing could be done much better through the income tax system, in which wealthier people do pay more. It is an income-contingent system or internal revenue system, and why not make use of that rather than inventing new types of mechanisms? Why not make use of a minimum corporate tax to fund our social programs and educational programs?

**Mr White:** So essentially it's for the tax system that those people who have benefited would be—

**The Chair:** Mr White, I'm afraid we're more than running behind. I just want to thank you for your presentation, and if there is any other information that you would like to make available to us as we continue our work—you did mention one report earlier that you had in answer to Mr Wilson's question. Perhaps we could have that so that we can check it.

**Ms Marion Perrin:** Would you like a copy of our employment equity material?

**The Chair:** Please.

**Ms Perrin:** We'll provide that.

**The Chair:** Okay. Thank you very much.

**Dr Graham:** Thank you very much.

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COMITÉ CONSULTATIF  
DES AFFAIRES FRANCOPHONES  
ADVISORY COMMITTEE  
OF FRANCOPHONE AFFAIRS

**Le Président (Charles Beer) :** J'invite maintenant le représentant du Comité consultatif des affaires francophones, Monsieur Giguère, s'il peut nous joindre. Bienvenue au Comité. Je pense que tous les membres du Comité ont reçu une copie de votre mémoire, si vous voulez bien vous présenter et indiquer votre titre et l'organisation et présenter votre mémoire.

**M. Michel Giguère :** Merci beaucoup. Mon nom est Michel Giguère. Je suis agent de recherche principal dans le nouveau Comité consultatif des affaires francophones, qui est une agence de type 1 du ministère des Collèges et Universités. Notre présidente, Mme Dyane Adam, avait été invitée à participer. Malheureusement, elle est en poste à Sudbury et n'a pas pu se libérer pour être ici aujourd'hui.

**Le Président :** Donc vous êtes fonctionnaire du Ministère ?

**M. Giguère :** Oui.

**Le Président :** Bon. C'est juste pour être clair que c'est un organisme du Ministère.

**M. Giguère :** C'est un organisme du Ministère. Par contre, il est géré par un groupe de personnes qui sont complètement externes au gouvernement.

Alors, on tient à remercier le Comité permanent des affaires sociales pour l'occasion qui est offerte de formuler nos inquiétudes quant aux modifications proposées au régime d'aide financière aux étudiants en Ontario. Malheureusement, nous avons dû préparer cette présentation en un temps très court. Nous avons été avisés seulement la semaine dernière de l'invitation du Comité. Nous aurions sans doute été à même de vous faire une présentation plus étoffée, n'eût été de ce délai serré.

J'aimerais vous décrire rapidement ce qu'est le CCAF. Le CCAF a été créé par un décret ministériel à l'été 1991. Son but est de conseiller le ministre des Collèges et Universités sur toutes les questions relatives à l'enseignement postsecondaire de langue française en Ontario, tout autant collégial qu'universitaire. Les huit membres du CCAF ont été nommés par le gouvernement à l'automne dernier et le CCAF s'est réuni pour la première fois en novembre 1991. Le CCAF a depuis été autorisé à embaucher deux agents de recherche qui sont entrés en fonction en février 1992. Début avril, nous sommes entrés dans nos nouveaux locaux et nous sommes devenus complètement fonctionnels.

Les huit membres du CCAF représentent le milieu universitaire francophone ontarien avec trois représentants ; le milieu collégial, trois représentants ; le milieu syndical, un représentant, et le milieu des affaires un autre représentant. La présidente, comme je l'ai mentionné plus tôt, est Dyane Adam, vice-rectrice adjointe à l'Université Laurentienne à Sudbury. Par ailleurs, nous avons six membres qui siègent sans droit de vote. Trois de ces membres représentent, respectivement, le Conseil de l'éducation franco-ontarienne,



le Conseil ontarien des affaires universitaires et le Conseil ontarien des affaires collégiales. Le CCAF maintient d'ailleurs des liens étroits avec ces trois organismes. Enfin, les trois autres membres non votants proviennent du ministère des Collèges et Universités.

Le CCAF se réunit régulièrement et se penche sur les questions que lui soumet le ministre en plus d'étudier toute autre question relative à l'enseignement postsecondaire de langue française qui lui semble pertinente.

J'aimerais aborder maintenant nos préoccupations quant à la réforme du régime d'aide financière, d'abord, sur la question des taux de participation des francophones aux études postsecondaires. Dès le départ, j'aimerais mentionner que le CCAF est très préoccupé par la question des taux de participation des jeunes Franco-Ontariens et Franco-Ontariennes aux programmes d'études postsecondaires.

Des recherches récentes des professeurs Frenette et Quazi, de l'Institut d'études pédagogiques de l'Ontario, démontrent clairement que le taux de participation des francophones aux études postsecondaires est nettement inférieur à celui des non-francophones. Les auteurs ont démontré qu'en ce qui concerne la population étudiante, à temps plein du moins, les francophones sont sous-représentés dans les programmes d'études postsecondaires. Par exemple, entre 1979 et 1989, la proportion de francophones de 18 à 21 ans inscrits aux études postsecondaires (collégiales et universitaires de premier cycle) passait de 20 % à 31 %, alors que la proportion chez les non-francophones du même âge passait de 32 % à 49 %. C'est-à-dire donc qu'en tout temps au cours des années 80, un non-francophone avait environ 50 % de chances de plus qu'un francophone d'être inscrit à temps plein à un programme d'études postsecondaires.

J'aimerais vous signaler la figure 1, qui est à la dernière page de votre graphique, où vous allez voir que pendant toutes ces années il y a toujours cet écart de taux de participation entre les non-francophones et les francophones qui se maintient à peu près constant entre 1979 et 1989. Donc, même si vers 1989 les francophones atteignent environ 31 %, ils sont encore loin derrière les non-francophones en ce qui concerne la participation combinée au collège et au premier cycle universitaire, du moins pour ce qui est du groupe de 18 à 21 ans.

Bien que la participation des francophones se soit accrue au cours de la décennie 1980 à 1989, elle n'a en somme fait que progresser au même rythme que celle de la population non francophone, de sorte que le décalage qui existait en 1979 est à peu près le même ; il existe toujours.

De même, alors que les Franco-Ontariens et les Franco-Ontariennes représentent environ 6 % de la population ontarienne, ils ne sont que 4,8 % de tous les inscrits aux études postsecondaires, incluant les étudiants à temps partiel. Or, ils sont sur-représentés à temps partiel, mais même en incluant les étudiants à temps partiel cela représente déjà plus de 5000 francophones «manquants» dans le système d'enseignement postsecondaire pour obtenir une proportion de 6 % dans le système.

Dans ce contexte, il n'est pas étonnant que l'augmentation du taux de participation aux études postsecondaires soit une priorité pour la communauté francophone.

D'ailleurs, le ministère des Collèges et Universités a reconnu cette préoccupation de façon explicite en mettant sur pied le programme Éduc-Action, dont le mandat est justement de financer des initiatives qui visent à inciter les jeunes francophones à s'inscrire à des études postsecondaires, et donc à accroître les taux de participation des francophones à l'éducation collégiale et universitaire. Ce programme a été mis sur pied comme conséquence directe des recherches des professeurs Frenette, Quazi et Churchill, auxquelles je faisais allusion toute à l'heure. Il est aussi dans la mouvance de la Loi sur les services en français ; je ne vous apprendrez rien là-dessus, Monsieur Beer. Ce programme se justifiait d'autant plus que la mise en place de la Loi sur les services en français laissait entrevoir une pénurie de professionnels et de diplômés franco-ontariens pour assurer les services en français dans la province.

Au CCAF nous endossons la préoccupation de la communauté quant au faible taux de participation des francophones aux études postsecondaires. Nous tenons par conséquent à rappeler au gouvernement que tout ce qui peut nuire à l'accessibilité de la population en général aux études postsecondaires a un impact encore plus dramatique chez la population de langue française. Compte tenu du taux de participation déjà faible des jeunes francophones aux études postsecondaires, toute diminution de ce taux ne pourrait avoir, d'après nous, que des conséquences désastreuses sur la vitalité et le développement de la communauté franco-ontarienne.

Le CCAF recommande donc que le gouvernement s'assure que toute modification au régime d'aide financière soit précédée d'une étude fouillée d'impact anticipé sur les taux de fréquentation de l'enseignement postsecondaire. Toute modification devant entraîner une baisse du taux de participation devrait être rejetée. En corollaire, toute modification pouvant entraîner une hausse du taux de participation devrait être encouragée.

Quant à la situation économique des Franco-Ontariens, il est indéniable qu'un des facteurs qui entre en ligne de compte lorsqu'un étudiant prend la décision d'entreprendre des études postsecondaires est l'accès à des ressources financières suffisantes. Le régime d'aide financière est un moyen de réduire le nombre de jeunes qui ne poursuivent pas d'études postsecondaires pour des raisons financières alors qu'ils sont qualifiés pour le faire sur un plan strictement intellectuel. Vous avez entendu cela plusieurs fois aujourd'hui.

Les données du recensement de 1986 tendent à démontrer que sur les plans du revenu individuel, du revenu familial et du taux de chômage, les Franco-Ontariens sont défavorisés par rapport à la population en général. Par exemple, le taux de participation au marché du travail en 1986 était de 62,5 % pour les francophones, alors qu'il était de 69 % pour la population ontarienne en général. De même, le taux de chômage en 1986 était de 8,7 % chez les francophones, alors qu'il était de 7,0 % chez les anglophones. D'ailleurs, 5,5 % de la population anglophone avait un revenu supérieur à 50 000 \$ en 1986, alors que seulement 4,4 % des francophones étaient dans la même situation. Le revenu moyen de la population ayant le français seulement

comme langue maternelle atteignait 16 700 \$ en 1986 ; celui de la population ayant l'anglais uniquement comme langue maternelle s'élevait à 17 586 \$, une différence de 5 %.

Il nous semble par conséquent que toute diminution de budget des programmes sociaux visant à accorder des suppléments de revenu, et le RAFFO en est un, est davantage susceptible de heurter la population francophone que la population ontarienne en général. Le CCAF recommande donc que le niveau de financement total distribué par le RAFFO ne diminue pas. Si l'aide donnée par le RAFFO devait être réduite, la population francophone en souffrirait probablement de façon disproportionnée.

J'ai aussi essayé de trouver des statistiques sur l'utilisation du RAFFO par les francophones. De façon assez surprenante à première vue, compte tenu de ce qui précède, les francophones ne représentent que 1,7 % des demandes d'aide acceptées par le RAFFO cette année. Compte tenu qu'ils proviennent d'un groupe économiquement défavorisé, on pourrait s'attendre à ce que les francophones bénéficiant d'aide financière soient plus nombreux que leur proportion dans la population étudiante en général.

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Plusieurs facteurs peuvent expliquer cela. D'abord, les francophones sont, toutes proportions gardées, davantage inscrits à temps partiel dans les universités que les anglophones. Ainsi, bien qu'ils représentent 4,9 % des inscrits à l'université, ils ne représentent que 4,1 % des inscrits à temps plein. Or, le système d'aide financière tel qu'il existe actuellement n'est pas conçu d'abord pour les étudiants à temps partiel, puisque même chez les anglophones à peine 1 % des bénéficiaires sont des étudiants à temps partiel.

D'autre part, la définition de «francophone» utilisée par le RAFFO peut créer problème. On utilise le fait que le demandeur a utilisé le formulaire français pour le classer «francophone». Or, d'après nous, il est très possible que de nombreux francophones remplissent le formulaire en anglais simplement parce que le formulaire français n'est pas disponible ou parce qu'ils n'en connaissent pas l'existence.

De fait, lorsqu'on a demandé à un groupe de 259 jeunes francophones s'ils connaissaient les différents volets du régime d'aide financière, ils ont répondu oui à 63 % pour les bourses, à 56 % pour les prêts et à 33 % seulement pour les prêts canadiens. Le système semble donc être assez méconnu, ce qui pourrait aussi expliquer en partie le faible taux de demandes francophones.

Les données du RAFFO démontrent cependant que les francophones ont un plus haut taux de succès que les anglophones dans l'obtention d'aide financière. En moyenne, les francophones reçoivent des bourses plus élevées et des prêts moins élevés que les anglophones. Ceci est sans doute dû, d'après les responsables du régime d'aide financière, à ce que les francophones ont moins de ressources financières que leurs homologues anglophones et se qualifient donc plus facilement pour une bourse. Encore une fois, on peut voir que les francophones seraient davantage touchés que les anglophones par une modification qui réduirait le montant accordé en bourse.

Comme les bourses vont surtout à des étudiants provenant des familles à très faible revenu et que les francophones

proviennent proportionnellement plus de ce milieu que les anglophones, une réduction du montant accordé en bourse affecterait les francophones de façon significative.

Enfin, un dernier point sur l'endettement étudiant. Bien que les données ne soient pas disponibles selon la langue maternelle, les responsables du RAFFO calculent qu'au sortir du collège, un étudiant ayant bénéficié du programme doit en moyenne plus de 8100 \$, alors que l'étudiant qui termine son programme universitaire est en moyenne endetté de 14 400 \$. Ce dernier montant est déjà très élevé puisqu'il représenterait, selon l'étude du professeur Peter Atherton qui a été citée par l'intervenant précédant, environ 8 % à 10 % du salaire initial moyen d'un diplômé universitaire, ce qui constituerait la limite acceptable d'endettement d'après les institutions financières. C'est donc dire que tout accroissement de l'endettement aurait tendance à faire franchir cette limite d'endettement acceptable aux étudiants universitaires.

Dans le cas des francophones, la situation serait encore plus grave. Les travaux de Frenette et Quazi montrent que les étudiants universitaires de langue française sont peu inscrits aux domaines lucratifs comme les sciences de la santé, les sciences de la nature et le génie. Ils sont par contre beaucoup plus présents dans des domaines comme l'éducation et les sciences sociales, domaines traditionnellement moins lucratifs. Il apparaît donc clairement que l'accroissement de l'endettement des étudiants universitaires toucherait bien davantage les francophones que les anglophones.

D'ailleurs, le remboursement lié au revenu, bien que certainement complexe à mettre en place, aurait au moins l'avantage de tenir compte du fait que les francophones se retrouvent dans des carrières traditionnellement moins rémunératrices. Dans un esprit de justice sociale, il nous semble que ce principe devrait être appliqué.

En conclusion, il serait péremptoire à cette étape-ci de tenter déjà de prédire l'impact de transformer le système de prêts et bourses en un système de prêts seulement. Les données établissant les relations entre la participation aux études postsecondaires et l'accès à des ressources financières suffisantes semblent partielles. Tout ce qu'on a pu consulter semblait inutile pour prévoir les conséquences des changements proposés. Cependant, pour nous une chose semble claire : tout changement qui irait dans le sens de diminuer l'aide aux étudiants, de diminuer l'accessibilité à l'enseignement postsecondaire ou encore d'augmenter l'endettement pourrait avoir des conséquences désastreuses sur la communauté francophone.

Les Franco-Ontariens, avec l'appui de leurs institutions communautaires et du gouvernement provincial, ont entrepris un effort pour diminuer l'écart qui sépare leur taux de participation aux études postsecondaires de celui de la population en général. Cet effort a donné de timides résultats jusqu'à maintenant, et le gouvernement devrait être très prudent pour s'assurer que tout ce travail ne sera pas effacé du jour au lendemain suite à une décision trop rapide quant à la réforme du régime d'aide financière.

Comme vous le savez, la communauté francophone est déjà très préoccupée par la rareté des ressources disponibles en matière d'enseignement postsecondaire de



langue française. Je pense ici aux questions des collèges de langue française qui sont réclamés par la communauté. Toute diminution de ces ressources, dont celles que les francophones reçoivent à travers le régime d'aide financière, provoquera inévitablement un mécontentement important dans la communauté.

Par conséquent, nous aimerions suggérer à nouveau que toute modification au régime d'aide financière soit précédée d'une sérieuse étude d'impact anticipé, afin de s'assurer que l'accessibilité aux études postsecondaires ne soit pas compromise ni pour la population en général ni pour les francophones de l'Ontario en particulier.

**Le Président :** Merci beaucoup pour la présentation et, en effet, toute une série de points qui ne touchent pas simplement au programme mais aussi à l'éducation au niveau postsecondaire auquel font face les francophones. Maintenant, nous avons le temps pour une question par caucus. Je vais commencer avec Mrs Cunningham. Do you have a question?

**Mrs Cunningham:** You'll have to excuse me, because I don't speak French. I do speak English, if we have a translator.

Were you here for most of the afternoon?

**Mr Giguère:** No, I just arrived.

**Mrs Cunningham:** Then my question probably won't be particularly relevant. I was going to ask if you had heard about the presentation that was made on behalf of the colleges and universities with regard to structured payments and the repayment of loans and a shift away from grants. You haven't had a chance to look at that.

Given the presentation you made, there are probably a couple of things you are interested in. First, there's the accessibility; the second is to be able to get more francophone students into the universities. In the short term, I just wonder if you think the greatest deterrent is the financial problem, or is it another one that we should be looking at?

**Mr Giguère:** I'm pretty sure finances are quite important. As Mr Wilson said a bit earlier, it's certain that there is a cultural barrier as well. But the organizations in the community are working on those cultural barriers, and there is already a little program at the Ministry of Colleges and Universities trying to encourage young francophones to register in colleges and universities. This is good work that is being done.

My point is that any reduction in financial assistance would be felt even more in the francophone community because of the average income being lower and the rate of registration being lower as well.

**M. Drummond White (Durham-Centre) :** Vous avez un bon sondage sur le sujet des taux de participation, mais j'ai une petite question. Pour la participation des francophones, il est vrai que ceux qui ont réussi sont bons, mais le taux de participation est peut-être le résultat du fait que nous n'avons que deux ou trois universités bilingues et pas une seule université francophone. Qu'en pensez-vous ?

**M. Giguère :** Vous parlez des taux de participation à l'enseignement universitaire ?

**M. White :** Oui.

**M. Giguère :** Ça peut être le cas. On n'a pas vraiment de données là-dessus. Ce qu'on pense c'est qu'en ce moment il y a des programmes disponibles dans le Nord à l'Université Laurentienne, dans l'Est à l'Université d'Ottawa et d'autre part au Collège Glendon de l'Université York. Ces programmes ne sont pas suffisants pour couvrir l'éventail de toutes les disciplines. Par contre, il y a beaucoup de progrès qui a été fait depuis deux ou trois ans et c'est certain qu'il y a encore du progrès à faire.

Par contre, on s'aperçoit, avec les statistiques des professeurs Frenette et Quazi, que les étudiants ne semblent pas s'intéresser à s'inscrire à l'enseignement postsecondaire. Il semble y avoir un peu cette barrière culturelle qui empêche les étudiants vraiment de s'inscrire en aussi grands nombres.

C'est vraiment sur des choses comme ça que l'Association canadienne française de l'Ontario, par exemple, et beaucoup d'autres organismes communautaires travaillent en ce moment pour encourager les francophones à s'inscrire dans les collèges et dans les universités et leur montrer quels avantages ils pourraient tirer d'un passage au collège et à l'université plutôt que simplement laisser tomber les études après la 13<sup>e</sup> année. Cet aspect-là est quand même assez bien couvert par les organisations communautaires.

Maintenant, si un jeune francophone, une fois qu'il a brisé cette barrière, se rend compte qu'il n'a pas les ressources financières pour accéder à l'enseignement postsecondaire, là toute bonne volonté pourrait tomber. Le fait que les francophones, au régime d'aide financière, obtiennent des bourses plus élevées que les non-francophones nous semble indicatif qu'ils en ont plus besoin encore que la moyenne de la population en général.

**M. White :** Oui, c'est un bon signe.

**Le Président :** Une dernière question. Monsieur Daigeler.

**M. Hans Daigeler (Nepean) :** D'abord, je voudrais vous féliciter pour avoir préparé une excellente soumission même si vous n'avez pas eu beaucoup de temps pour la préparer. Je trouve que vous avez touché aux questions les plus importantes d'une manière très logique et très bien présentée.

Vous avez déjà répondu d'une certaine manière à ma question : quelles sont les initiatives de la communauté franco-ontarienne elle-même pour augmenter la participation des étudiants et étudiantes francophones ?

Au Québec, le taux de participation est aussi un peu moindre que la participation du reste du Canada dans les universités et les collèges. Alors, est-ce qu'on pourrait dire que le taux de participation des francophones est inférieure à l'ensemble du pays ou est-ce que c'est un problème spécifique à la situation minoritaire en Ontario ?

**M. Giguère :** Je ne pourrais pas vous répondre de façon définitive — je n'ai pas les chiffres — mais je lisais récemment dans *Le Devoir* une enquête qui disait que le Québec avait fait un rattrapage énorme dans les dix dernières années par rapport à l'Ontario, pas l'Ontario francophone mais l'Ontario en général. Il semble y avoir eu beaucoup de rattrapage sur les taux de participation au



Québec. Par contre, ces rattrapages-là ne se sont pas faits chez les minorités hors Québec.

Je ne sais pas exactement quelle serait la situation par exemple en Acadie ou dans d'autres provinces où les francophones sont en minorité, mais j'ai l'impression qu'il y a un peu un décalage entre les francophones hors Québec et les francophones au Québec, de sorte qu'on peut espérer que, dans la prochaine décennie, il y aura soudain ce rattrapage ici.

Mais je pense que le graphique à la dernière page nous montre qu'il n'y a pas de rattrapage qui se fait entre les francophones et le reste de la population en Ontario en ce moment. La croissance est bonne, mais ce n'est que la même croissance que celle de la population en général. Le retard n'est pas comblé.

**The Chair:** Merci beaucoup, Monsieur Giguère.

Just before ending our meeting, I would remind the subcommittee again: tomorrow at 3:30 in room 230, or earlier if routine proceedings have ended. I also remind committee members that next Monday we'll be in committee room 2, not in this room. There are representatives from a number of the European countries who are going to be here and they'll be making use of this room, so it will be in committee room 2. This meeting stands adjourned.

The committee adjourned at 1814.









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### STANDING COMMITTEE ON SOCIAL DEVELOPMENT

- \***Chair / Président:** Beer, Charles (York North/-Nord L)
- \***Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)  
    Drainville, Dennis (Victoria-Haliburton ND)
- \*Fawcett, Joan M. (Northumberland L)
- \*Martin, Tony (Sault Ste Marie ND)
- \*Mathysen, Irene (Middlesex ND)  
    O'Neill, Yvonne (Ottawa-Rideau L)  
    Owens, Stephen (Scarborough Centre ND)
- \*White, Drummond (Durham Centre ND)
- \*Wilson, Gary (Kingston and The Islands/Kingston et Les +les ND)
- \*Wilson, Jim (Simcoe West/-Ouest PC)  
    Witmer, Elizabeth (Waterloo North/-Nord PC)

#### **Substitutions / Membres remplaçants:**

- \*Brown, Michael A. (Algoma-Manitoulin L) for Mrs O'Neill
- \*Cunningham, Dianne (London North/-Nord PC) for Mrs Witmer
- \*Lessard, Wayne (Windsor-Walkerville ND) for Mr Owens
- Waters, Daniel (Muskoka-Georgian Bay/Muskoka-Baie-Georgienne ND) for Mr Drainville

\*In attendance / présents

**Clerk / Greffière:** Mellor, Lynn

**Staff: Personnel:** Drummond, Alison, research officer, Legislative Research Service



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## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 11 May 1992

# Journal des débats (Hansard)

Lundi 11 mai 1992



## Standing committee on social development

Organization

Student assistance

## Comité permanent des affaires sociales

Organisation

Aide financière pour les étudiants

Chair: Charles Beer  
Clerk: Lynn Mellor

Président : Charles Beer  
Greffière : Lynn Mellor

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### **Renseignements sur l'index**

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 11 May 1992

The committee met at 1542 in committee room 2.

**The Acting Chair (Mrs Yvonne O'Neill):** I call to order the meeting of the standing committee on social development. I am chairing today in the absence of Mr Charles Beer.

I would like to welcome some elected members from far and distant countries whom we have with us today. I think some of them were with us in the House. The Eastern European countries are doing a tour of legislatures in Canada and are going to be with us this afternoon. We certainly welcome you. We hope our committee hearings will be helpful.

### COMMITTEE BUDGET

**The Acting Chair:** The first item on our agenda this afternoon is the committee budget. I suggest we approve this as presented. I am ready to receive any questions you may have. It is a very traditional committee budget.

**Mr Hans Daigeler (Nepean):** I presume this is based on last year's activity of the committee. Is that the pattern we're following here?

**The Acting Chair:** Do you want to answer that?

**Clerk of the Committee (Ms Lynn Mellor):** What I discussed with Mr Beer, because we hadn't any idea of what is coming to us, was that we do an annual budget looking at the idea that we will have perhaps four weeks of sitting in both recesses, or perhaps five in one and three in the other, depending on the subject matter referred to us. That's what we based it on.

**Mr Drummond White (Durham Centre):** I move support of the budget.

**The Acting Chair:** All right. With that we will take the vote. Just as a matter of note, the Tories have given us permission to go ahead without them, for the approval of this budget and some of the hearings this afternoon, until they arrive. May I have a vote just to make this approval process traditional?

Those who are for the budget as presented? All right; we have unanimous support of the members present for the 1992-93 budget of the standing committee on social development.

### STUDENT ASSISTANCE

Resuming consideration of the designated matter pursuant to standing order 123, relating to student assistance.

#### ONTARIO COMMUNITY COLLEGE STUDENT PRESIDENTS' ASSOCIATION

**The Acting Chair:** I think we have our first presenter, as outlined. Have I got Mr Simon Smith in front of me?

**Mr Simon Smith:** You have. I'm actually waiting for two more people, but I guess we can just—when they appear, they appear.

**The Acting Chair:** Excuse me. I have a lot of noise behind me with this traffic. You'll have to speak a little louder.

**Mr Smith:** I'm waiting for two more people, so I guess—

**The Acting Chair:** Would you like to wait? It would be much help if we could start.

**Mr Smith:** Is it possible to give them a few more minutes? My speech will not take 20 minutes.

**The Acting Chair:** I think we could reach a compromise in five minutes if everybody would guarantee to stay in the room. You're not supposed to be on for five more minutes, but I'd rather the members did not leave, because five minutes never seems to be enough to bring people back in. Are you going to be reading a brief, Mr Simon?

**Mr Smith:** I just wrote a little speech.

**The Acting Chair:** You have no written brief to present.

**Mr Smith:** I actually didn't get the copies required. I'm going to bring them down tomorrow. The lady I spoke to this morning said it was all right if I did that.

**The Acting Chair:** If your remarks and likely those of your colleagues are rather informal, would you mind making your remarks and then we will ask you questions?

**Mr Smith:** Sure, whatever you like.

**The Acting Chair:** If your colleagues join you—well, I think that might be better in that there are always several questions. We can never accommodate all the members' questions. Mr Smith, perhaps you'd like to begin. You have the 20 minutes. You can divide it however you wish.

**Mr Smith:** I would first like to relay the apologies of our organization, OCCSPA, as unfortunately our executives could not attend today's meeting.

We live in tough times today. Nobody can deny that. Canada's government, laden with massive debt at both the provincial and federal levels, must make tough economic decisions to both balance government budgets and encourage a stagnating economy. Today's policymakers are being forced to find new ways to cut expenses and balance the books that will ensure not only short-term financial responsibility and growth but also long-term financial responsibility and growth.

During the past 18 months, Canada and the rest of the industrialized world has fallen upon tough economic times. We are facing ever-increasing unemployment, homelessness, family breakdowns, overcrowding in our schools, massive demand for food banks, overloading of our social programs, cuts in our health system and I could go on even more.

Amid all of the turmoil, despair and uncertainty remains Canada's greatest resource, our youth, our young people, the segments of our population that will lead us

into the next century as our future leaders. This country is internationally recognized around the world as a country rich in resources, but in order for its resources to work and to benefit the nation, they must be cultivated, managed and developed.

Indeed, the same can be said for our young people. Canada needs to cultivate, manage and develop its young people through the continuation of a quality education system, allowing accessibility and affordability to all who require it. In Japan, a country that has seen dramatic economic development and growth over the last 30 years, Japanese industry and government encourages and recognizes the need to develop an educated workforce, able to apply specific skills to such growth areas as electronics, computers and sciences. Japanese society emphasizes a need for quality education. Government and industry recognize this need, generally sponsoring a wide range of programs that assist and encourage students towards a quality education.

With the current trend towards a global marketplace, Canada will have to compete with the likes of Japan, Germany and Denmark etc. In order to compete successfully, the Canadian workforce must be prepared to meet our competition head-on, offering quality products and services, but also developing future initiatives and projects that will give us an edge over our competitors. To gain this edge our workforce must be well educated and able to deal with new technologies that are changing at a rapid pace.

Accessibility and affordability of a quality education are a must if Canada is to survive in today's global economy. Government must allow Canadians the option of gaining a quality education, and for those unable to afford it our government must put in place tools and resources that will allow everyone an opportunity to develop and get an education.

A dramatic increase in admissions to all forms of post-secondary education has led to a dramatic increase in the student loan and grant requirements. Students, many of whom are facing a bleak summer regarding employment, will be forced to use OSAP to its maximum this coming academic year.

Currently Ontario must face student loan defaults in excess of \$115 million per year. Combined with the increase in admissions, no work and a poor economy, many students will be unable to afford an education, unable to get a job and unable to attain their goals and dreams, many of which will help this country grow in the future.

The suggestion of abolishing grants and going to a loans-only program will mean a huge increase in student loan plan defaults. This in turn will prevent many students from affording school and unable to access many of Canada's premier education facilities. Many students who leave home to go to school will have to look locally for educational institutions, and for many people living in small rural areas the option of going to college or university will remain a distant dream.

The Ontario student award program is an essential part of our future. At Sheridan College, approximately 46% of our full-time student body applied for OSAP during the 1991-92 academic year. The number of applications re-

ceived was 4501, a 49% increase from the previous year. This is a clear indication that students have a desire to learn, but accessibility is difficult due to the lack of employment now and the lack of financial assistance.

In the previous academic year, Ontario student grants provided Sheridan College with 44% of total student assistance. With the removal of this grant program, more students will require loan assistance to attend school and not all will be successful. However, all will feel the stress and pressure of heavy debt upon graduation from their respective program. This is even more discouraging when the unemployment rate is obscenely high, forcing many students to default on their student loans when they do graduate.

In the past year, 38 area high schools were visited by Sheridan's student loan officers, and they held 19 internal information sessions, again, a sign that our youth are proactively planning early for their future through post-secondary education. This opportunity has been removed simply because many will be unable to afford a higher level of education, and the thought of a large debt upon finishing school will force many to abandon their dreams of higher education.

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Therefore, by reducing the amount of assistance students receive, you reduce the number of people enrolled in your school. They in turn are still unable to find employment and must turn to UI or welfare for assistance, increasing these costs to an even less bearable rate and again leaving the burden on our taxpayers.

Students need the assistance, remembering that our students of today are our future of tomorrow.

In conclusion, I say to all of Canada's decision-makers, remember that this is indeed a great country, full of great people, with wonderful traditions. For all of us to continue this, we need to develop our greatest resource, ourselves and our young people. We must allow accessibility and affordability to a quality education, especially to those unable to afford an education. That is why the need for grants is a must for Ontario and indeed for all of Canada. Let's develop, not destroy.

**The Acting Chair:** Thank you, Mr Smith. Mr Daigeler, you have a question?

**Mr Daigeler:** Thank you, Mr Smith, for coming before us probably on somewhat short notice, as it always works with these committees. Nevertheless, I think your input is very valuable to us.

Let me ask you first of all if you had been aware, before you received the invitation to appear before us, of the plans that are being developed both inside the government and, I guess, especially by the association of university presidents to put in place an income-contingent repayment plan; in other words, changing OSAP to a loans-only program and—

**Mr White:** On a point of order, Madam Chair: There are no definite plans put before the public with regard to a loans-only program, and this prejudices the response.

**The Acting Chair:** At committee we are able to investigate all options. I don't think this is a point of order. It may be a point of information, but it's not a point of order.



**Mr Daigeler:** I think, Madam Chair, that Mr White has previously used points of orders in a very inappropriate manner to interrupt members of the opposition who are speaking. I would appreciate it if you would perhaps advise him to refrain from that in the future.

**The Acting Chair:** Well, I haven't accepted his point of order.

**Mr Daigeler:** I think it would go ahead much easier if he would leave that with us.

**Mr White:** Madam Chair—

**Mr Daigeler:** If I could continue with the witness—

**The Acting Chair:** I have ruled that it's not a point of order. Mr Daigeler has the floor.

**Mr Daigeler:** You can understand, Mr Smith, from the questions that are coming from the government, that obviously it's a sensitive issue. That, of course, is why we are raising it. You will appreciate that the students who have appeared before the committee so far are extremely concerned that these matters are discussed. They know there are funding constraints upon everyone. So I'd like to ask you again, because we were interrupted here, were you aware of these plans and, if not, what is your view specifically on this income contingency idea?

**Mr Smith:** As I said in the beginning, I'm here representing my executive, which cannot be here. I know the basics. I'm not aware of the fine details of the plan. No, I'm not aware of the income plan at all. Actually, I'd never heard of it until today.

**Mr Daigeler:** Perhaps I should indicate to you that—

**Mr Smith:** I am aware of the fact that this government is considering abolishing the OSAP grants as they exist today.

**Mr Daigeler:** Well, I haven't gone so far as to say that. I will leave it up to the government members to either correct this or not.

**Mr Smith:** But that's the proposal. That's why I'm here.

**Mr Daigeler:** Frankly, there are pressures coming from various groups. One of the witnesses that was here was the Council of Ontario Universities. I think they are one of the main proponents of this income contingency plan.

You're the first one to come for the college community. Perhaps I could hear from you in a more general way how important OSAP is for the community college students. You already mentioned it a little bit by saying that almost half your students applied for it. How significant is OSAP for your students in particular, and are there any specific problems that you're experiencing as college students?

**Mr Smith:** The biggest problem is turnover. The system is overloaded. Turnaround time for our students is extremely high. Students are having to wait up to five months to get their money. People, especially single mothers, are in dire straits. This year I've had more students in my office in tears, financially destitute, than ever before.

The whole system needs to be looked at. Administratively it appears to be a nightmare, compounded with the

fact that the number of applications has doubled since last year and that it'll probably double again. Like I said before, half of our students at Sheridan College—and I did not know this until today—which has 10,000 full-time students, rely on OSAP. I think a total payout of \$11 million last year. If you consider that 44% of that was grants, that represents about \$1,200 per student, which is a lot of money. That will mean, for a lot of students, not going to school next year, which concerns me and should concern us all.

**The Acting Chair:** Mr Martin, did you have a question when you were raising your hand or were you just trying to get my attention?

**Mr Tony Martin (Sault Ste Marie):** I want to assure you that there are no plans in place to change anything at the moment. There's a review going on. Is your organization part of that review? The organizations that have come before us so far have all been part of that review and are certainly participating actively in it and trying to assist us in this very difficult area of trying to make sure that all students in Ontario who want to go to college or university have access. In fact, our government last year threw an extra \$53 million into the pot above and beyond what normally goes into the student assistance program to make sure that as many people as possible were able to access.

The big question at this point, I think, is much more fundamental than whether it be grant or loan; it is, how can we improve the system so that more students can go to college and university? I'm not sure about you, but I know that when I was in university there were a number of students who needed money who didn't get it and a number of students who did who didn't need it.

**Mr Smith:** That's the other problem, yes.

**Mr Martin:** How do we resolve some of that so that more students who actually do need the money to access post-secondary education can in fact do that?

**Mr Smith:** You're probably not aware that our organization has just gone through a structural change. We initiated a new executive with a new mandate only last week. I'm not quite sure whether anybody has been attending these meetings—the Ontario Federation of Students and the Council of Ontario Universities—that's basically why I'm here. I'm sort of coming in blind.

I think the biggest problem here is accessibility. A lot of students, like you mentioned, who do deserve it don't get it and then the ones who don't, do get it and spend it on frivolous things such as stereos and holidays. There has to be some way we can change that. I don't know how, but I think someone mentioned to me this morning that the Australians have some kind of system that once you're 18—

**Mr Martin:** That's what Mr Daigeler was referring to earlier, the income contingency loan idea.

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**Mr Smith:** I had heard that apparently if that was placed into our system it would save us \$40 million a year in administrative costs alone. I think the whole system needs to be looked at, revamped. It's becoming an administrative nightmare. I don't know what to suggest.

**The Acting Chair:** Do you have a question?

**Mr White:** Yes. I notice that tomorrow our first witness will be Mr Chris Trump, the executive director of the Association of Colleges of Applied Arts and Technology of Ontario. You essentially are his counterpart. By coincidence, I met Mr Trump at a Skills Development workshop last weekend. He's going to come out in favour of the income contingency plan. You've stated you don't have any necessary concerns about that, but your prime concern is revamping the OSAP programming with the emphasis on accessibility and generating as much accessibility as possible for college students.

**Mr Smith:** For the people who need it, yes. There has to be some way we can make this accessible to the people who really need it. I don't know how, but—

**Mr White:** You're saying that at present the OSAP program, with its emphasis upon universities as opposed to colleges, family dependency etc, really has some major problems for your colleagues.

**Mr Smith:** I don't know whether it has an emphasis over colleges.

**Mr White:** It does.

**Mr Smith:** I don't know. I'm not going to speak on that. But I know, for example, for young, single mothers who need the money very quickly, some of them are unable to work and they have day care and many of them have had to wait many months to get their loans, and many single people as well. It's tough right now. It's very tough for students. Having to wait that much longer adds more stress, and they don't need that. There are an awful lot of problems with it right now.

**Mr Jim Wilson (Simcoe West):** Mr Smith, I think you've done an excellent job of stating why the grant system should be preserved, although you've indicated there should be some streamlining and greater efficiencies in the system. I agree with you there. I am probably the only member of the committee right now who's still paying back my OSAP, so I'm well aware of the difficulties you've brought forward and also some of the long-term consequences you've mentioned. But I think the government, if it does move to cut out the grants, will sell that by saying, "We're cutting out grants, but we're going to provide more money for loans." Can you just briefly, for the record, comment on how that will affect your constituency?

**Mr Smith:** Again, I'm against that because I feel the thought of the burden of a heavy debt load upon finishing school is going to have dire consequences on many students. Many students will probably not even bother going to school if they can't afford it. They're probably unwilling to take on such a heavy debt.

**Mr Jim Wilson:** Is that because it would scare them, taking on the debt?

**Mr Smith:** For sure it would, yes. A three-year program at college, with \$10,000 a year, is \$30,000.

**Mr Jim Wilson:** With no guarantee of a job afterwards.

**Mr Smith:** No. That's the problem. We're facing no guarantees at all. There's no guarantee in life, period, but—

**Mr Jim Wilson:** It's a little bleaker now.

**Mr Smith:** —it's a little bleaker right now. It's a bad time. We realize there are financial constraints everywhere, but I really think maybe we're going after the wrong people.

**The Acting Chair:** I think, Mr Smith, you've done yourself well. I'm sorry your colleagues were not able to join you, but hopefully they'll be able to read Hansard and they will agree with what you've presented.

**Mr Smith:** I hope so. Thank you very much.

#### ONTARIO GRADUATE ASSOCIATION

**The Acting Chair:** Lisa MacCormack, please. Lisa, you are representing the Ontario Graduate Association.

**Ms Lisa MacCormack:** That's right.

**The Acting Chair:** Would you begin, please.

**Ms MacCormack:** The Ontario Graduate Association is a semiautonomous commission of the Ontario Federation of Students. We represent some 18,000 graduate students in Ontario. As a commission of OFS, the OGA is funded and supported by OFS and we have indirect access to the OFS research department field staff and information services.

The Ontario Graduate Association is pleased to have received an invitation from this committee to make a presentation regarding the Ontario scholarship assistance plan. The Ontario Federation of Students has already, last week, tabled a submission to this committee. We echo the details of that paper and would like to expand further on issues particular to graduate students.

The purpose of graduate education is less the dissemination of knowledge than its creation. Because of this, the quality of a graduate program is measured in great part by reference to its students. To create and maintain a good graduate program, one must be able to recruit the best available students regardless of social barrier or economic disadvantage.

Financial support is a serious problem for graduate students, whose progress through a master's and doctorate can easily drag on for over a decade. A recent survey of doctoral students at the University of Toronto concluded that the "most important factors in accounting for the time it takes students to complete their doctoral studies are financial." Debt accumulated over the course of the degrees, and the compounding interest in the years which follow graduation, create impossible scenarios for graduates.

Graduate students were shut out of OSAP grant eligibility in 1978 when the system was reformed. Prior to 1978, 30% of master's students received OSAP grants; with reform, the number of grant eligibility periods was limited to eight terms, and graduate students no longer qualify. The change represented a major cut in student aid for this group, and the Ontario graduate scholarship program was not enriched to fill the gap.

The Ontario graduate scholarship program assists roughly one in every 15 full-time graduate students, after an extremely rigorous process of elimination. The bursary



amounts to \$3,953 for two or three terms, which is far below subsistence level. Last year 1,300 scholarships were announced and less than 1,200 were awarded. The loss of over 100 scholarships was never explained by the government.

The first recommendation that the OGA has is to maintain the present mix of loans and grants over that of an all-loans program, but we stand behind the grants program as put forth by OFS.

We are the example you are looking for. We are an example of what will happen if the grants portion of OSAP is eliminated. Completion times of degrees are longer. People have to stop going to school, they have to get part-time jobs, they have to drop down to a part-time status just to pay the tuition bills to go to school. Graduate students are forced to live on their credit cards. That's not an isolated incident; that happens. A graduate education is becoming only for those who have the personal financial resources to pay for it. Another concern of proceeding to an all-loans program is that students will be carrying such a heavy debt load by the time they leave their undergraduate degree that they're going to be drawn to finding a job and paying off that loan rather than going on to graduate education.

Besides the problem of not qualifying for an OSAP grant, graduate students are facing a further economic hurdle. The Ontario Council of Graduate Studies has recently released a paper entitled *Toward a Graduate Tuition Fee Policy for Ontario Universities*. This paper recommends the dismantling of the present residency/post-residency tuition fee schedule, where after a certain period of time in university, usually three semesters in a master's degree and six semesters in a doctorate degree, you pay tuition fees 40% of what you would normally pay. What they're recommending is that all universities move to a maximum tuition for every semester of graduate school by 1995-96.

This will increase the financial burden on graduate students to the breaking point, and it will be conceivable that a master's degree, two and a half years approximately, will cost at least \$10,000 in tuition fees alone and that a doctorate will set you back \$22,000 in tuition fees. They're conservative estimates on how long it would take to do a degree. The University of Toronto has already announced the intention to eliminate the post-program fee differential in the coming year. Graduate students will have to rely on student loans and teaching or research assistantships which are already in short supply because of the general underfunding to the university system.

The second recommendation that the OGA brings today is that the limit on grant eligibility periods be eliminated. The impending massive tuition increases graduate students are facing now are making students wonder if it is in their best financial interests to continue their education. Funding for graduate students is already at a crisis point. Don't make the same mistake with the undergrads.

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**The Acting Chair:** Thank you very much. Mr Martin, you have the first question.

**Mr Martin:** I want to thank you for coming and for the obvious time you put into preparing your brief. You

certainly bring some compelling arguments to the table from your personal perspective and that of some of your friends who are attending graduate school.

The problem at the moment seems to be one of a shortage of resources, whether it's into the university/college system and whether it's through lack of money to upgrade the physical facility of universities or to improve the libraries and perhaps the number of professors who are there to teach and all of that, and then ultimately you throw into the mix our ability as a government to provide assistance for students who want to go so that there is accessibility.

We have a system of grants and loans in place which doesn't seem to be working. It doesn't matter who you talk to: Students who are getting them are saying they're not getting enough; students who aren't getting them want more. There are even students out there who say that if we were to provide more open access to loans, they would be getting a loan because they feel they could at least pay that back after.

Graduate students are an interesting group in that they're already into a loans-only program, and obviously they're finding it somewhat difficult. In light of that and in light of our need to review this whole process, which we're doing, is there anything at this point we could do to the program, short of providing grants to graduate students, which would make it easier for them to continue their studies and not be frozen out of the system at a point where they're not yet complete?

**Ms MacCormack:** Graduate students are sort of stuck on the fence. We're stuck between the federal government and the provincial government. The federal government funds us for research—that's where we get our NSERCs, our SSHRCs and stuff like that—whereas the provincial government funds the universities, the infrastructure: what is there for us to teach in, what is there for us to research in. We're torn between the two, because on the one hand we need the research money, and on the other hand we need the money to make sure the university is there. We're in a unique position.

What can you do to help graduate students get through? We've been shut out of grants for so long we don't even realize we could have got grants back in 1978. People are walking out with huge loans. The biggest crisis we're facing right now is the impending massive tuition fee increases we're going to be hitting. It's coming up. They're going to be going from approximately \$880.00 a year to upwards of \$4,500 a year. That's going to cut off the amount of graduate students coming to Ontario. They're going to go to Alberta and they're going to go to Nova Scotia and other places where tuition fees are not as high for graduate students.

Something has to be done in that way, indirectly. Instead of giving us money, which doesn't seem to be possible at this point in time because of the underfunding of the university system, do something to stop this huge increase, which the graduate schools wish to do right now on residency and post-residency, which will make tuition so high over that number of years for us. Right now it's taking on average three, three and a half years to do a master's degree. In 1977 it was taking two years, a year and a half. People



have to take the time off because the money's not there. They have to do their own type of work.

The other problem with graduate students is that even if you wanted to go out and get a part-time job and do something, you are regulated by what's called the 10-hour-week rule where you are mandated by the ministry to work no more than 10 hours a week or you will drop down from a full-time graduate student to a part-time graduate student, and then your degree is increased by even that much more time. You're stuck between a lot of rocks and a lot of hard places, to be honest.

If you stop the impending tuition fee increase by intervening in some way and telling the graduate schools that we can't accept such increases, that would help us in the short term. But if you don't do that you're going to end up seeing a loss of productivity and a loss of graduate students here in Ontario and you're going to lose the people to other provinces.

**The Acting Chair:** Thank you, Ms MacCormack. Mr Wilson, you have a question?

**Mr Jim Wilson:** Ms MacCormack, I am wondering if there has been a study done that would let us know how much it would cost to eliminate the current grant eligibility period, which is limited now, as you say, to eight terms. What if we were to eliminate that? Second to that would be, how many of the 18,000 graduate students would require financial assistance?

**Ms MacCormack:** I wish I could give you numbers on that, but I really can't. What I can say on eliminating the grant eligibility term is take it a step further and adopt what the Canadian Federation of Students has come out with as the Strategy for Change, which is an all-grants system where anyone can get a grant, whether they wanted to go to undergraduate or whether they wanted to do a graduate. I don't have the figures with me, but according to Strategy for Change, I believe it is at the point of \$1.1 billion, which would be on the federal government, and the provincial government would put the money that is normally placed in student assistance now directly into the universities. You can get a copy of that at the OFS office. I'm sure they would be more than willing to give you a copy.

As to how many of 18,000 graduate students would need it, we all need money. We're all living below poverty.

**Mr Jim Wilson:** Chair, I direct that question to the parliamentary assistant, who could take note of that and get back to the committee whether the government itself has any figures with respect to the question I've asked.

**The Acting Chair:** Mr Daigeler, have you got some questions?

**Mr Daigeler:** Yes. First a comment: Perhaps I could just remind you, even though the government members won't like this and I might get another interjection from Mr White, that the all-grants idea you mentioned as a position by the students also used to be the NDP policy priority. I don't know whether you recall that.

**Ms MacCormack:** Yes, I do.

**Mr Daigeler:** Of course, that was then, and now the situation is a little different. As an ideal, perhaps this would be a good idea, but we must not forget that all governments—I don't blame the current government for the fiscal problems that we are all experiencing. There are limitations and therefore everybody is looking at ways to deal with this financial crunch.

But you pointed out a very important issue that hasn't really been stressed enough: that we especially need graduate students and graduate work in this province and, of any group, it would be the graduate students who would be particularly hurt by a large debt load. The proponents of the income contingency plan are saying, "Well, they'll be the ones who will also make the most money afterwards, and therefore they can afford to pay it back."

Frankly, I think that's a very serious discouragement from entering graduate studies, from pursuing a financially rewarding career, because all you have then for a prospect is being taxed more; already the higher income levels are being increasingly taxed. Also, their education is going to be more expensive, so people are going to ask, "Why should I go through all this tough work to complete graduate studies?" You have a lot of sacrifice in terms of length of time and studying and everything else. I think you've done us a service by indicating the significance of a debt load, in particular for attracting graduate students. That is perhaps more a comment than a question.

I do have a specific question. For at least some universities right now, the graduate tuition fees have already been increased quite significantly. Was that at all universities or was it just at some, and what has been your reaction there?

**Ms MacCormack:** The present situation, what's going on, is that across the province every university can set how much it wants to charge in a tuition fee, as we all know. Some universities tend to charge full tuition for the first three semesters and then drop down to 40% of the tuition fee.

What you're probably referring to is what's happening at Carleton in Ottawa right now; also Western and the University of Toronto. The grand plan, it would appear, is to bring everybody on post-residency fees up to the same level. The University of Guelph, which is my university, presently charges \$550 a semester, after I've been there now for three years on my master's degree. At the same time, Carleton University was charging \$245 a semester. So Carleton, the University of Ottawa, Western and U of T have all come up to \$550.

The second step of the great plan is to go to full tuition for every semester after that, and the wish for that is to have it by 1995-96. My comment on that is that you're going to be driving away graduate students from this province and there will be no one here to do the teaching in our universities, to supervise the students or to do the research which brings the money to the universities. That's what the end result is going to be. I'm fully confident that that's exactly what's going to happen. Other graduate schools will reap the benefit of Ontario's losses.

1620

**The Acting Chair:** Mr White, you wanted one short question, as we're running a little ahead of time.

**Mr White:** One of the concerns I have is that I've applied for a doctoral program in the past—I'm not looking for one right now—and it seems to me that when I compared various doctoral programs, some of them were very fixed in terms of the residency requirements and the time for completion and others were never-ending cycles. In fact, that was the experience of the students involved.

I read in this presentation a concern about the length of time. You're saying this is related to funding, but I would also suggest that the structure of the program creates problems. If you have a never-ending cycle or a never-ending program such as at the University of Toronto, where at its doctoral level these programs can go on for six, seven years—and that's the regular experience—while other programs are defined as two-year programs after a master's for a doctorate, I am concerned that there should be responsibility on the part of the university to have defined programs so that students know what they're getting into when they enter a doctoral program, know what the expectations are, how many years, how many thousands of dollars they'll be spending. Any comments on that?

**Ms MacCormack:** In the world of research—I'm a chemist—things don't go pat in two years for a master's degree and six or seven years. I think there are a lot of humanity students out there who would love to be able to do a PhD in six or seven years.

Is it a problem with the university structure? I think the structure is set up to be most flexible for people who feel the need to leave school and have a part-time job, have a family, earn money on the side in order to pay for university. I don't think doing a six-year PhD is necessarily a problem in time to completion. I think what you can eventually trace it all back to is funding, not to the structure of a program. The programs are structured in order to be most flexible for the students as well as getting a good education and as well as bringing back to the university X amount of dollars in research. So I would say no, I do not agree with what you say about the problem with the structure of the program. I think it inherently goes back to the problem with the funding.

There is also the problem that universities, once they train their graduate students, like to hang on to them for a while. Because they've put so much money into them, because money is very scarce, once they have a graduate student trained who can do the research, then they can start pumping out the papers, which is exactly what universities like to do.

So in essence, sure, the universities may be willing to keep around graduate students longer than they would, but I don't think it's inherent in the structure of the program. I think it just has to do with the administration, and the graduate students and the funding itself.

**The Acting Chair:** Thank you, Ms MacCormack, for bringing your perspective to our committee this afternoon.

## CANADIAN UNION OF EDUCATIONAL WORKERS

**The Acting Chair:** The next group is the Canadian Union of Educational Workers, Vanessa Kelly.

**Ms Vanessa Kelly:** I'm Vanessa Kelly and I'm chair, national affairs, of the union.

**Mr Mark Satterly:** I'm Mark Satterly and I'm former chair, national affairs, of the union.

**Ms Kelly:** I made him come with me to help. He's done much of the work on this report, so I thought it would be useful if he came.

I have to apologize because you're going to hear some information you've obviously heard already. I'll try to keep it brief.

The Canadian Union of Educational Workers is very pleased to be invited to make this presentation on the Ontario student assistance program. We are extremely concerned that some of the proposals currently under discussion to change OSAP are going to impact negatively upon post-secondary education, further reducing accessibility and lengthening the time needed to complete degree programs. We've seen the briefs by the Ontario Confederation of University Faculty Associations and the Ontario Federation of Students and strongly support the positions put forward in these presentations.

CUEW represents approximately 5,500 teaching assistants in Ontario. The proposal to change the current procedure for providing student aid from a combination of grants and loans—I suppose in the case of graduate students, entirely loans—to one of loans alone will have a negative impact on the ability of many of our members to continue their studies and to maintain a reasonable standard of living. I should point out that we have undergraduates who are teaching assistants, as well as graduate students. We urge this committee to recommend to the Ministry of Colleges and Universities that student aid should be in the form of grants, not in the form of loans.

I would like to start the body of my report with a quote from an article by Professor Barrett in the *London Review of Books*. It's called "More Famous Than Madonna" and it's about Genghis Khan, believe it or not. It's nice to know somebody's more famous than Madonna, or at least was. In this review, Professor Barrett talks about the need to fund all types of programs in university, no matter how arcane they may seem to the rest of us. He says:

"One is reminded, when responding to government proposals for funding all levels of education, of the Indian story of the king who, noting that he had no immediate enemies, set his expensive cavalry horses to earn their keep by hauling mill wheels round and round. When they did have to be hastily redeployed in a defensive cavalry charge, they could only gallop round and round in circles, with disastrous consequences.

"Today, market forces rule education absolutely, at least in higher education, though how an initially uneducated market can make rational choices is unclear.... We live in an increasingly interdependent world, most of which has...a history very different from our own. Arriving at an understanding of what that alien history means



for the present and future is bound to impose new strains on our education system.

"Simply removing support from areas too specialized to pack in the increased number of students now required to justify any form of higher education exhibits exactly the behaviour derided in the Indian fable: concentrating on grinding out profits regardless of the consequences. Now more than ever security and prosperity, even if no longer threatened by invading nomads, depend on an accurate understanding of the shifting dangers and opportunities in the world as a whole; on an increased internationalism, not an Albanian retreat into comfortable illusions."

Access to higher education must not be based on the ability to pay. Universities are a key in providing opportunities to people of all classes to escape their class boundaries. Therefore, access to universities and colleges must be maintained for the poor, disadvantaged and underrepresented. Traditionally, many segments of our society have been consistently underrepresented, making it harder for them to acquire the education necessary to break out of the poverty cycle. It must be the primary responsibility of government at all levels to ensure that the financial barriers to post-secondary education are removed.

The Canadian economy is reliant on attracting people with a high degree of training and knowledge. Many studies show that the future workforce will require higher educational training, and I refer to the OCUFA brief on that particular point. This will increase the number of students who will require access to post-secondary education and will consequently require the necessary funding. Furthermore, public investment in accessible post-secondary education is vital to the province's social and economic wellbeing.

I think you will see that, as they advance higher through the post-secondary system and get into graduate school, those people who are most disadvantaged in the system find even more barriers in their way as they move up through the system, and you get people dropping out.

Student assistance should be disbursed with the objective of ensuring universal access to higher education. The current discussion within the Ontario government which suggests that the grant portion of OSAP is to be reduced is both alarming and insupportable. CUEW strenuously opposes any policy which would shift the burden of funding post-secondary education on to the students.

Education is a societal concern and, as such, should be publicly funded. In light of this, OCUFA and other groups have called for a reduction in and the eventual elimination of user fees for post-secondary education. Again OCUFA points to the 1976 United Nations covenant, which states that education is a basic right.

Current government policy has been precisely the reverse. Tuition is to increase again by 7% in 1992-93. Wage increases for teaching assistants in CUEW in the past year have ranged between 3% and 5%. Additionally, universities such as Toronto and Carleton are threatening to phase out the post-residency differential, leading to tuition increases as high as 78% for some students.

The awarding of grants can go some way towards the amelioration of the difficulties caused by low wages and

increasing debt load caused by the spiralling cost of living and increased tuition.

Any move to replace student grants with loans will necessarily affect access to post-secondary education. Under the present system, students are graduating with debts ranging from \$15,000 upwards. This debt load has to be balanced against the likelihood of being unemployed after graduating. For the economically disadvantaged, this represents a potential impediment to attending post-secondary education because of an understandable reluctance to incur a heavy debt load, particularly during the recession and in graduate school, I think, where you will see a real impact in these circumstances or in the humanities and social sciences, where the job market is particularly poor. It's hard enough to compete, and this is another barrier in the way of those students.

### 1630

One of the crises that is facing post-secondary education at present is the increased amount of time students are taking to complete their graduate degree programs, and you've already heard about this report that was recently conducted at the University of Toronto. In many cases, the length of time being taken to complete a program is increased because a student has interrupted that program: 44% of students who reported an interruption in their programs did so in order to work full- or part-time. While a variety of considerations may lead to the interruption of a student's program, the need to work is by far the most common. This further indicates that financial issues do play a primary role in speeding completion of a program.

In reference to your question about structures and whether structures of certain programs complicate this, I think that's a complicated question. But one thing I will say is that the types of people who are going to graduate school now are different than they were 15, 20, 30 years ago. You see more people who are older going back to school after one career or two careers. They have children. Funding patterns have changed and I think that has an impact as well. So it's not gentlemen and scholars all, as it used to be 30 years ago.

The financial crunch for the majority of students comes at the time when they are writing their dissertations. There may be other sources of income early in the program, such as teaching assistantship or a departmental grant. However, this funding often runs out before the dissertation is completed, due to an insufficient amount of time being recognized as needed to complete the entire program.

CUEW members are caught in a double bind. On the one hand, they are faced with cutbacks in funding; on the other hand, they are faced with the reduction or the elimination of jobs. On both counts, they are then forced to acquire a greater debt load or work outside the university, which in turn decreases their eligibility for loans.

The result is that a student either takes an increased amount of time to complete the program or else drops out without completing. The dropout rate, I think, is an indication of a tragic waste of human and institutional resources. For some people to be in a program for five or six years and have taxpayer money invested in their work and then drop out before completion is, I think, really shocking. The



dropout rates are getting to be outrageous, and I think the primary reason for that is lack of funding.

Coupled with the difficulty in securing funding late in a program is the unequal distribution of available funding. In many cases, private funding is available for students in certain disciplines such as engineering, computer science, nuclear physics etc. Those students in humanities and social sciences do not always have the same funding. I've referred you to an appendix that details that.

**Income-contingent loan repayment:** I'll simply say that our main point here is that when it comes right down to it, repayment variables are subject to amendment to suit the financial constraints of the respective government, so it's kind of Dutch comfort. We're not really secure with that particular proposal.

As far as improvements to OSAP are concerned, CUEW believes that improvements in OSAP are long overdue. Government strategy should be to make these improvements rather than trying to reduce student aid programs. Rather than supporting the principle of shifting from grants to loans, we support the principle of increasing the number of grants and reducing, with a view to eliminating, the loans.

It is time that the inequity in funding certain departments be addressed. If money is available from the private sector for some departments, then more government funding ought to be available for those departments which do not benefit from the private sector. Grant money is needed at the end of a graduate degree program, especially at the PhD level, when other sources of funding have run out.

I would like to stress this point, because departments always have a vested interest in bringing new students into their programs and getting bright students into their programs, so they'll find the money to get people and start them in a program. But what happens after four years is that you usually have no funding left. If some of the funding that is directed and channelled into the early years of the program could be slotted toward the later years of the program, I think it would really help to get people through more quickly.

The costs of enrolling in a graduate degree program need to be assessed more realistically. Costs such as rent and living costs have to be accurately reflected. Other social assistance needs to be incorporated, such as child care, disability allowance and travel.

The criteria for dependency need to be much more flexible. Currently there is no recognition that not all families are supportive ones. There are many cases, especially among CUEW members, where the teaching assistant relies upon his or her work as the sole or major source of income for the rest of the family. To give you an idea of what that could be like at a place like the University of Toronto, the average teaching assistantship for a year at U of T is worth about \$5,000. It's pretty hard to support yourself on that.

Improve the coordination between OSAP and other education support or social support programs, especially for those students from underrepresented groups.

As I've mentioned, there are some appendices which could give you some useful facts and figures from various sources. Again, thank you for inviting me to speak.

**Mr Jim Wilson:** Very quickly, are you having any progress in dealing with the University of Toronto on its proposed fee hikes? I'll ask the second question while I'm at it. Are you getting any air at all with regard to your suggestion of shifting the limited financial assistance that is available more evenly throughout the graduate student program?

**Ms Kelly:** To answer your first question, we've been encouraged by the amount of graduate student response to these proposals on the part of U of T. I think unanimously they're against these types of increases, particularly for visa students, who of course are not eligible for OSAP. But you're looking at tuition costs in the area of \$11,000. Students are quite upset.

Unfortunately, the school of graduate studies at U of T seems to be in favour of it. There has been some discussion with the school, but it's been very vague as to how this plan's actually going to work. There's some discussion of grandparenting the fees over the next couple of years, but nobody has made any promises yet. We're really not sure what's going to happen.

As to your second question, the problem in shifting funds is that right now, the way money is dispersed at a place like U of T is that you get a slice of the pie and the departments have to fight over the slice of the pie. I think they're very reluctant to shift funding patterns because they're afraid they're going to lose the better students. They're not going to be able to attract better students. We saw that in bargaining with U of T, where we tried to point out that teaching assistantships should not be used primarily for funding the teaching jobs and that things like hiring criteria should apply to the way people are given jobs at U of T.

Over and over again we heard, "But we need those teaching assistantships to attract new students." There's a lot of resistance to shifting that funding pattern, and I think the direction may have to come from outside and not from within the university.

**Mr Jim Wilson:** I'm glad you said that. I used to be a student rep on the board of governors, so I know how difficult those turf battles can be. You mentioned a proposal there to allow students to work outside, and beyond the 10 hours, I gather. How will that affect you?

**Ms Kelly:** Actually, that will affect them negatively. As you know, how much you can work affects how much of a loan you can get. If those limits are raised, that's going to have a negative impact on the amount of loans. That's also a complicated question, and it's not clear what's going to happen with the 10-hour limit. Again, our members are in a double bind because they either have to go out and work to support themselves, which takes longer so that they take longer to complete their degree, or they have to really live below poverty levels. It's a difficult question.

**Mr White:** You pointed out a couple of things that I think are very important with the OSAP program. A frustration I have is that, being a father with three children, I

wouldn't be eligible because my wife works half-time and earns almost \$20,000 a year, which is probably way above the limit. It's hard to live on that amount of money. There's a problem in terms of trying to bring people back in. It doesn't appeal to people, and also you're saying it basically doesn't work for graduate students. It's loans only for graduate students. It's really inadequate in terms of bringing people back in and sustaining people for a lengthy period of time. Could you go a little bit further in terms of the amendments you'd like to see in the OSAP program at present?

1640

**Mr Satterly:** I'm not quite sure what you're asking, actually.

**Mr White:** You were saying the OSAP program is inadequate.

**Mr Satterly:** Right.

**Mr White:** What else would you like to see happen with it, besides the grants?

**Mr Satterly:** Something's got to be done with eligibility. I mean to say, I'm in a similar position to the one you might be in. I've got a partner who works, makes over \$20,000 a year and I've had to put a thesis on hold because I can't afford to pay my tuition because I don't have any other source of funding, and what was looked at was how much other members of my family were earning. That's a serious issue that has to be addressed.

Vanessa has mentioned about overseas students. I was also a visa student when I came here. That's the other issue. A lot of visa students, with what they earn either in terms of a teaching assistantship or if they get a part-time teaching job or if they get a scholarship or whatever, are still barely covering their tuition. We mentioned the point of the phasing out of the post-residency fees. That is going to probably affect visa students more. Yes, it's going to affect Canadian students too; it's going to affect visa students even more.

Certainly I see some emphasis on that. I don't quite know why this is suddenly being attacked. It seemed to come out of the blue a couple of months ago. We'd like to see some reasons why this post-residency is now being attacked and why it's suddenly an issue.

**Ms Kelly:** I guess the point to be made is that none of these things can be looked at in isolation. They really all do connect, so you can't raise tuition and then put a little more into the OSAP loan program. I think there has to be a comprehensive reassessment of how the post-secondary education system is funded and what role the student plays in that system.

Of course that fits into the larger issue of the tax structure. I believe the OFS brief talked about progressive taxation and that type of thing and made various statements on that issue which we support. Certainly, looking at the eligibility requirements in terms of time too: So many graduate students just aren't eligible for OSAP. It would be helpful as well if those eligibility requirements could be reworked so that more graduate students would be able to access those loans.

**The Acting Chair:** Mr Wilson, you have time for a very short question.

**Mr Gary Wilson (Kingston and The Islands):** I worked at Queen's University library for 11 years. When times were better we didn't see much result from university funding. As you know, underfunding has been a problem for quite a number of years. My question involves the coordination among the groups on campuses and whether there can be more deliberation among those groups to have better use of the funds that are there now.

**Ms Kelly:** By groups on campuses, do you mean the institutional groups on campuses or graduate student groups, union groups?

**Mr Gary Wilson:** I actually meant student groups, workers, faculty and administration.

**Ms Kelly:** It's a great idea in principle and I would certainly urge the committee to direct university administrations to be more cooperative and consultative. Maybe they're moving in that direction. The problem with many of the student groups—and if you could have seen Mark and I at about 2:30 this afternoon Xeroxing like crazy, you would have realized this—is that we're very short in terms of human resources and financial resources.

I think somebody on the committee asked about the type of studies that have been done on how long it takes to complete degrees. We would love to be able to conduct those kinds of studies. In fact, we had to wait for the University of Toronto to finally get interested in that, because I think the school of graduate studies was starting to get hammered because it's taking so long for people to complete their degrees. We just don't have the resources to do it. That might be one thing the committee could direct administrations to do, to include student and union groups on committees more and to direct some funds. That's not a big cost issue.

Just to let you know how resistant the universities can be on that issue, I was on the bargaining committee for the teaching assistants last year when we were on strike. What we were on strike for was a joint union-management committee to discuss TA workload and overwork. That's all it was, a committee. The committee is not empowered to do anything else but make recommendations, and we had to go on strike to get it. I can remember speaking to people at the Ministry of Labour, who just said: "This is ridiculous. This is like stone age bargaining." I think there's a great deal of resistance to include the students and many parts of the faculty, librarians as well, in this consultative process, and that's certainly one thing that you could do, tell them to open up a little bit.

**Mr Satterly:** I've seen over the last year that there has probably been more in the way of consultation or at least taking steps towards it. The frustrating thing I find is that often the consultation happens when it's a fait accompli, or we're called in and told what the university's going to do, and so we're kind of left working with other unions or associations on the campus. We feel that we're one group and the administration and its set is another group, and we come in only when things have been decided. We're obviously willing to consult as much as possible, but it has to



be real consultation. I hope that what we've seen over the last few months, particularly around the transitional funding that the government announced in the last budget, is going to continue and it's going to be something that becomes more realistic or a real consultation as opposed to just going through the motions, which it seems to be at the moment.

**The Acting Chair:** Thank you, Ms Kelly and Mr Satterly, for your presentation this afternoon.

#### CANADIAN ORGANIZATION OF PART-TIME UNIVERSITY STUDENTS

**The Acting Chair:** We have the association of part-time university students present now: Mr Hui and Ms Fisher. Are you both going to be presenting?

**Ms Deanne Fisher:** He'll be presenting.

**Mr Thomas Hui:** I will be presenting the report and both of us will be answering questions as needed.

**The Acting Chair:** All right. Thank you, Thomas. Would you like to begin now please?

**Mr Hui:** Madam Chair, members of the committee, ladies and gentlemen, we welcome the opportunity for COPUS, which stands for Canadian Organization of Part-Time University Students to be present here, to view some of our concerns regarding the OSAP program.

What I am going to do is just go through the submissions we have in front of you and then we'll be answering the questions as needed.

We're going to go through the profile of our part-time students. A part-time student, as defined by the Ministry of Colleges and Universities and the OSAP program, is a student enrolled in a post-secondary program in less than 60% of a full-course load. These are students, however, whose interests are represented by our organization who are not covered by the Ministry's formal definition of a part-time student. For example, students in many of the non-credit, non-post-secondary courses and programs are not eligible for OSAP. Some institutions define part-time students as those who are taking up to 70% course load, which includes the University of Toronto. We also represent the interests of mature students who study full-time as well.

The typical profile of part-time students shows them as older than their full-time counterparts, usually working either full-time or part-time or taking care of family members. A majority of part-time students are female, mostly taking courses in the evenings. They also have previous post-secondary education.

In 1989, part-time students accounted for only 1% of OSAP recipients, although part-time students made up 17% of the MCU's funded college enrolment and 31% of university undergraduate enrolment during that year.

Although the low number of part-time OSAP recipients is in part due to the greater financial security of some of these students, there are many less obvious reasons. As you know, OSAP provides grants to students in the first eight terms of study, the equivalent of a university degree, regardless of whether the students even applied for assistance in those eight terms. Many part-time students have

participated in post-secondary education earlier in life and are returning because of a need to retrain and upgrade. Many are immigrants with education from their native country and require the equivalent education here in order to have their skills recognized. These students are not eligible for grants. If this type of student qualifies in every other respect, then their need will be met in loans only, which they may be less likely to accept.

The part-time Canada student loans program is not a student assistance program as we know it to be. Repayment of a part-time Canada student loan begins 30 days after the student borrows the money, while he is still studying, and he also has a loan limit of \$2,500. Most students do not accept this kind of assistance as they are unable to make repayments. Ontario student loans, therefore, are the only viable form of assistance remaining for many part-time students. Ontario student loan provides up to \$1,000 per term.

#### 1650

Part-time students who used up their grant eligibility period may be ineligible for OSAP for other reasons, primarily because their financial resources are perceived by OSAP to be sufficient to carry through their education without government assistance.

We have little data to support our assumptions about why many part-time students do not receive OSAP funding. However, a study of part-time students at the University of Toronto discovered that of 69% of part-time students who did not apply for student financial assistance, less than half said it was not necessary. A third, on the other hand, said that they were not eligible for assistance and a further 23% said they did not apply to avoid debt.

We therefore believe there's a significant financial need within the part-time student population which is not being met by OSAP in its current form.

Would an adequate loans program be able to meet those needs? We are not opposed to the concept of student loans. However, we are highly sceptical that an all-loans program could prove feasible, especially from the students' perspective.

The average debt load of a graduate is already somewhere around \$14,000. A student with that kind of debt would be required to pay it back within 10 years. Perhaps 10 years of devoting roughly 10% of one's salary to repay a student loan seems fair for the traditional 24-year-old graduate with few other financial obligations upon graduation, but increasingly, students over the age of 25 are accessing the programs and OSAP.

What effects do a \$14,000 debt to be repaid over 10 years have on a graduate who may be 40 years old, have a family to support and be preparing for both his own retirement and the children's education? We don't have the answer to this question and we suggest a great deal more research is needed on non-traditional students before you consider increasing the debt load for graduates. Factors other than age and family status, such as race and ethnic background, must be taken into consideration as well. The idea that post-secondary education is an investment almost guaranteed to be met with increased financial security may not be as universal as the current program presumes.



Given that very few part-time students are using the OSAP in the current form, a more liberal loans program would at least be an improvement if it allowed most students to borrow what they perceive they need. Part-time students would benefit greatly from an improved part-time Canada student loans program which provided the same benefits to part-time students as it does to full-time. Instead, the federal government is currently considering increasing the course load requirement needed to access full-time Canada student loans to 80%. That change will relegate another group of students to the part-time Canada student loans program, which remains unchanged and inadequate.

I'd like to consider the possibility of an income-contingent repayment plan. Would it possibly alleviate this problem? We're not opposed to the concept of income-contingent repayment. It provides security to the borrower that the loan repayment will not be unreasonably arduous. However, we're sceptical that it's feasible. Many questions would have to be answered to our satisfaction before we could support such a program.

Some of those are, for example, what is a reasonable percentage of a graduate's salary that should be devoted to a loan repayment program? Would this percentage be applied evenly, regardless of the debts incurred by the graduate? What is a reasonable length of time for repayment? Ten years, 20 years, more? For all graduates? Would personal circumstances other than income be taken into account—age, family status etc? Will loans be forgiven at some point? How will that point be determined? Is income contingency financially feasible for the government? At what point does the administration of such a large system outweigh the financial benefits to the government, ie, at what point is it as cost-efficient to give grants rather than administer loan repayments, which are already heavily subsidized?

We believe that some form of non-repayable assistance—probably in the form of interest subsidies and remission for low-income graduates—will necessarily have to accompany an income-contingent loan repayment plan.

In conclusion, our general advice to the government in any revision to OSAP, including moving from grants to all loans, is that you keep in mind the changing composition of the post-secondary population and its needs. OSAP is an outdated, youth-oriented program in drastic need of renovations. The Canada student loans program is even worse. A new student financial aid program must recognize that a student's ability and willingness to incur large debts is largely influenced by his or her personal and social circumstances, as is the student's ability to study full-time. A new student assistance program must be flexible enough to accommodate the changing demographics of student populations and the concept of lifelong learning.

**The Acting Chair:** Thank you, Thomas. We have about three minutes for each caucus, so Mr Martin, you are first.

**Mr Martin:** Thank you very much. You certainly bring some interesting perspectives and I think some very real concerns to the discussion here this afternoon, as we

look at the changing demographics of the student population in Ontario. I said last week that I was at a graduation at a community college two weekends ago and that the age of students going across the stage was quite varied and really actually interesting and exciting.

What we are doing in this exercise is to explore any possibility that there is to make this program more workable and to improve student accessibility to the process. One of the options being studied at the moment is the income-contingent loan program that has been tried in Australia. The little that I know of it so far certainly presents some interesting potential. However, it would probably need to be adjusted somewhat to meet the real needs of people in Ontario and perhaps still be combined with some form of grant system.

Right now that system seems to be based on a person's ability to repay. If you become a doctor, apparently your ability to repay would be better than if you were going to be doing something else. What I hear you saying here—and perhaps you can tell me if I'm wrong—is that there may indeed need to be some contingencies put in there other than the ability to repay, such as your age, the size of your family and some other notions of that sort.

Is there any way we could introduce a program, perhaps on this model, that would provide a greater level of comfort for you, representing the part-time student reality in the province at the moment?

**Mr Hui:** I guess what we see here is that, looking at the demographics of part-time students, it's not as homogeneous as a 24-year-old undergraduate would be. You have to take into account the various other parameters like age, family status, the other life commitments of the part-time student graduates in instituting programs.

1700

**Mr Martin:** If we were able to do that, would you be more comfortable with this notion?

**Ms Fisher:** I think that, in general, moving from the power of the banks to dealing with the government is probably a positive direction to go, because as I know from personal experience, repaying the banks is not a pleasant experience at all. They essentially deduct it out of your account as soon as they find out where you are, and there's no negotiating with them in terms of what percentage of your income you're going to pay. You're going to make the minimum payment and that's about it.

If the government were willing to be more flexible than banks are, and if we are going to have a loan system, which looks inevitable, then this kind of system, taking into account maybe my family status or whether I have children who are entering university age or things like that, certainly would be an improvement, and I'd be more comfortable with that than I am with the current loans program. Does that answer your question?

**Mr Martin:** Yes, it does. Thank you.

**The Acting Chair:** Mr Wilson, are you prepared at the moment to pose a question?

**Mr Jim Wilson:** Sure. Thank you, Madam Chair, I was just consulting with the research there. I should put on the record also that one of my vast experiences at the

University of Toronto was I was the speaker for the Association of Part-time University Students. That was actually my job in fourth year, and I'll admit, their committee per diem was higher than ours, Madam Chair. Great bunch of people.

I really just had a simple question, because I think the points you made are very clear in your presentation, and I thank you for that. But I was just wondering: In the statistics you present on page 2 with the number of students who did not apply for student financial assistance, how many would have applied and were turned down?

**Ms Fisher:** Actually, I was responsible mainly for that survey, which was conducted in the fall. We did find that about 30% or so had applied. Almost all of them had been granted some form of assistance. We didn't differentiate in the survey as to what kind of assistance they got, whether they were accessing a part-time Canada student loan or giving that up and taking an Ontario student loan.

You also have to take into account that this was done at the University of Toronto, and a part-time student there is someone taking 3.5 courses or less, so this would incorporate a group of students which the ministry does not consider part-time students but we do, so it's probably those students who are taking three and 3.5 courses who are applying for assistance and getting it. The ones who are taking less than three courses are not applying for it because they already know that, for the most part, they're ineligible.

**Mr Jim Wilson:** Just a brief new question, Madam Chair. Because the government, I gather, is having a bit of a task force and it won't really make any moves or announcements, or at least any moves won't be implemented until the beginning of the 1993-94 school year, have you given any thought, or are you already getting together with OFS and CFS and the graduate student unions and those people? Because I think your income contingency repayment comments are perhaps just a little bit different than what OFS has presented. My experience with government lobbying—because I also used to be the university government commissioner in my second year on the Students' Administrative Council at U of T—I'm giving you a progression of where I went—

**Mr Daigeler:** Didn't you used to date Shelley Martel?

**Mr Jim Wilson:** I also used to date Shelley Martel at that time, just for the record. It's already been recorded in the Legislature. We might as well have it here too. Shelley was a great Tory then; I don't know what happened in the meantime. None the less—

**The Acting Chair:** I thought this was supposed to be a short question.

**Mr Jim Wilson:** This is a short question. Just for my own sake, are you getting together with a common front?

**Ms Fisher:** You're talking about provincial changes, not federal, right?

**Mr Jim Wilson:** Right. I think that's really all that's within the mandate of this committee.

**Ms Fisher:** We're already represented. I sit on the ministry's OSAP review committee, and I'm in pretty

close communication with OFS, but I think what you have to understand is that we're in a completely different situation than are the majority of full-time students in that most of our students don't get anything already, so we're in a situation where, if they gave us loans, I suppose we'd say, "Well, fine, we'll take anything," but if you asked us ideally what we'd like, sure we'd like access to the grants like everybody else has, but—

**Mr Jim Wilson:** But you're being realistic?

**Ms Fisher:** We're being realistic.

**The Acting Chair:** Mr Daigeler, please.

**Mr Daigeler:** You mention in your brief that the federal government is considering tightening the interpretation of part-time students. The course load requirement would be 80% in order to qualify as a part-time student. Where did you get this information from and how serious are those plans by the federal government?

**Mr Hui:** I was at a meeting with Mr de Cotret and his ministry department last week—I think it was April 30—of a committee of the national advisory group for the student assistance program and it was presented to me by the Secretary of State in separate documents. They are very seriously considering—they are actually recommending—changing the definition of full-time students from 60% to 80%. They also mentioned that New Brunswick has been considering the same changes.

The changes mean a great deal of impact to part-time students. As you know from Canada student employment, the program for part-time students is completely non-existent in the way that it's being structured. By changing it to 80%, it means there's a group of students, between 60% to 80%, who are going to be excluded from getting any kind of Canada student loan at all.

**Mr Daigeler:** I think you're quite right that that obviously would have very significant consequences for students and part-time students as well, as would the income contingency plan.

I have one other question, because we're quite limited in time. At the beginning of your brief, you mentioned that students in many non-credit, non-post-secondary courses and programs are not eligible for OSAP. Can you describe a little bit which students you have in mind there and whether you envisage some support for these types of students as well?

**Ms Fisher:** I should probably answer that. The types of students we're talking about are students who would be in, for example, what we call continuing studies or continuing education programs. In particular, Ryerson has a lot of students who are ineligible because they're in continuing education; some of them are. It's very complicated there.

In the community college sector, I think some colleges report they have a majority of students who are in what we call non-credit—not programs—courses. They would be taking English as a second language, some computer courses perhaps, all sorts of things.

Universities often offer what are called pre-university programs and things like that, where if you don't have the necessary academic prerequisites, they will accept you for



a year. You take a course or two and if you are successful you are admitted to the university. Those students are not eligible for full OSAP, although they are eligible for the Ontario special bursary plan, but you essentially have to be on social assistance to access that.

So those are the kinds of students we're talking about. The more I found out, the more I realized how many there are. There are an awful lot of them.

I would argue that some form of assistance, either in an expanded Ontario special bursary plan, because these students generally need the money for tuition books—their living expenses are either covered by social assistance or they have some other means, but some kind of funding for these students is appropriate. To some extent, a student is a student is a student. Does it really matter what they're taking as long as they're taking it for altruistic reasons, which may be to further their employment or to become a better educated person or for whatever reason?

Often these programs are the more appropriate way for these students to go. You don't need a four-year computer science degree in order to get ahead in technology. You might need a couple of programs here and there, but if you're only going to get funding for the four-year degree, which one are you going to choose? You are going to choose the four-year degree that you don't necessarily need. So this is a quick way for people to improve their conditions, but the impediment is that the tuition is often quite high and there is no funding for it.

**Mr Daigeler:** I think that's an excellent one, a very, very, significant one that hasn't been raised yet. I really appreciate your bringing that forward.

**The Acting Chair:** Thank you both very much. I think the entire committee has appreciated your different view on the matter.

1710

#### ONTARIO COALITION AGAINST POVERTY

**The Acting Chair:** Our last presenter of the day is Mr John Clarke, representing the Ontario Coalition Against Poverty. Would you please come forward, sir. I think, Mr Clarke, you've been before a committee that I've been on before, so I'm sure you know all of the traditions.

**Mr John Clarke:** Absolutely.

**The Acting Chair:** There is a 20-minute time limit on this particular presentation.

**Mr Clarke:** I hope this time I can afford to be fairly brief. I should perhaps begin by acknowledging that this question has not been a major area for our coalition in the past. I therefore don't like to come here to pretend to an expertise that doesn't exist. At the same time, when this question came up and the possibility of our involvement was raised, we felt it important to add our voice. The whole question of the adequacy of OSAP and the very notion of eliminating the grant system seemed to strike at the heart of questions of vital interest to low-income people, and on that basis I am here today.

First of all, I would like to make the point that the erosion of OSAP and the possible elimination of the grant system has to be placed in a certain context. At the mo-

ment, our coalition finds itself combating at every level, and with dubious success in some cases, the whole concept of the level playing field with regard to social services. The erosion of social services, and very vital ones, seems to be highly advanced. It seems to have gone a very long way in the recent period. We are indeed living in a period when governments generally are accepting the logic of rolling back services that have been considered part of the social fabric, part of a way of life. It seems to us, as an anti-poverty organization, that all political parties seem to be embracing that direction, differing only in degrees of enthusiasm or reluctance as they go about performing that work.

I think that agenda of eroding social services, including education, is enormously tragic and enormously counter-productive. We are dealing with a situation where every ministry and every department of every ministry seems to scramble for the means to save dollars and to cut back, but lacking is a total picture, lacking is an understanding of the impact of introducing specific cuts in other areas.

As we watch this process of cutbacks unfold, it seems very clear to us that governments will certainly pay and society will certainly pay for them. Money can go into education or money can go to providing welfare cheques. Money can go into the health care system or ultimately money can go into locking people up in prisons. Ultimately, when you fail to provide basic services, you still end up paying at the end, and that seems to us to be very clear in this particular instance.

With regard to post-secondary education, the disadvantages that low-income people face are already enormous, and in many cases crushing and ruinous. The whole question of the debt load and the fear thereof with regard to receiving a higher education is an enormous question for low-income people considering that as a particular option.

When I functioned with the London Union of Unemployed Workers as a front-line advocate for people having particular problems, one of the major questions that constantly came up, one of the most frequent issues, was the question of low-income people who had taken on an OSAP debt load and now found themselves being plagued by debt-collecting companies, often with extreme ruthlessness and scant regard to any concepts of fairness or natural justice in the way they went about frankly hounding people. The truth is that, however you cut it, a low-income person is going to be repelled by the notion of a \$15,000 debt load. There is no way around that.

I think the US experience has been enormously instructive in that regard. We can perhaps take it as axiomatic that there is a correlation between being black and being poor in the United States of America, and yet in the United States, if you look at the experience, moves away from a grant system in the early 1980s saw a 4% drop in college enrolment for black people. I see no reason why, with regard to poor people in Ontario, we should expect the experience to be any different.

We're aware of the income-contingent loan repayment proposals and we would have to say that we find those extremely disturbing and extremely dangerous. We see them not as a solution to the problem, but rather as a cover



for the problems that are likely to arise, for a likely violation of the rights of students to an education, or potential students to an education. The fact is that however you dress it up, however you cast it, the prospect of a massive debt load is going to continue to deter people. It's going to continue to repel low-income people.

A person living in poverty, hoping to receive a post-secondary education, is clearly going to say that a government that can end OSAP grants is also going to be a government that can tighten the screws with regard to the repayment schedules, and he's going to take very cold comfort from some proposal to go about the repayment schedule prudently.

I think more important, however, is that the whole concept of a modest and reasonable process of paying back strikes at something much more important: that in our society we need to be getting away from the whole question of a user fee system in areas of post-secondary education, and we need to be moving in precisely the opposite direction.

I think that what we are looking at as we see the possibility of retrenchment, of moving back, is the thin end of the wedge. If it's agreed that people must finance their own way through school, then what is to stop the logic of precisely such a move invading the lower levels of education, invading primary schools, the notion that education becomes not a right but in fact a privilege, and a privilege based on ability to pay?

In fact, I think if such a system were implemented the very clear message that would be sent out to poor people in Ontario is that higher education is frankly something that is not for you. For the poor, there is retraining but for the rich there is education. I think that's an extremely dangerous message to be sending out today.

We're told that 40% of the jobs that are going to be created between now and the end of the century are going to require 16 years of education. If that's the case, then moves to deny low-income people the possibility of higher education is to say to them very clearly, "For you, dwindling welfare payments and the low-wage ghetto are your only options."

I think we must reject the concept that education is something that is denied low-income people and I would certainly urge you to work in the direction of strengthening OSAP, strengthening the access to post-secondary education and rejecting the concept of its erosion.

**The Acting Chair:** We have about three to four minutes for each caucus. I have three members of the NDP who want to speak. I don't know whether you've done any negotiating or not. Mr White was the first with his hand up. Mr Owen would like to ask a question as would Mrs Mathysen.

**Mr White:** I will be brief. You have complaints with regard to income contingency, but also in terms of how OSAP is administered and raises a barrier for the poor, for working people. What would you like to see change with OSAP?

**Mr Clarke:** Unfortunately, I haven't had anything like the amount of time I would like to look into the question, but generally I think what we need to be seeing is a move

in the direction of increased grants, increased adequacy. I understand there has been a significant erosion in terms of what people are actually able to receive to get them through school. I think the status quo that exists at the moment where people are encountering debt loads of \$15,000 on a fairly routine basis to get through university is a ruinous barrier with regard to the opportunities for low-income people to access higher education.

Education and retraining are held up as a sort of new religion that masks the fact that the problems in our society in some ways are caused much more by the destruction of jobs than the lack of training. None the less, if low-income people are to have an equal opportunity to go for the new jobs that exist, then very sweeping and fundamental changes have to be enacted in the direction of moving away from user fees and creating an accessible, free higher education system.

1720

**Mr Stephen Owens (Scarborough Centre):** John, you made a comment with respect to training for the poor and alluded to the fact that it's the more well-off individuals who can become educated in the strictest sense. Could you expand on that a little bit?

**Mr Clarke:** I think we see, really at every level, moves in the direction of retraining for low-income people that often have a very inadequate way of proceeding, that often provide handouts of one form or another to employers rather than retraining programs that genuinely meet the needs of people, that genuinely provide people with the skills they want and need to acquire.

On the other hand, through university there is the possibility of receiving some education that will enable people to at least have some real opportunities to break out of the low-income situation. Certainly that's the desire of enormous numbers of people. We see great numbers of single parents working to get to university against formidable barriers.

It's not just a question of OSAP and how it's structured; it's the whole question of a person, let's say a single mother, living in poverty, experiencing the most rampant difficulties on a daily basis and combating those difficulties. If they're to be overcome, there's a need for every possible means of assistance and support to be provided, not in fact the opposite; not people being discouraged at every level, barriers being put in people's way, a ruinous debt load being run up in the process of trying to do something people are told will make them useful and contributing members of society.

I think the notion that there should be broom pushing for six weeks and then back on UI for the poor and higher education for those who can afford it is an offensive notion that needs to be rejected.

**Mr Jim Wilson:** John, you made a number of excellent points in your presentation, but I worry about the overall philosophical thrust of some presentations where I would argue that a debt load of \$15,000 is an impediment for so-called rich people also. I mean, we found out through the latest budget that only 3% of Ontarians make over \$80,000 a year, 10% make over \$53,000, and if you

read the papers, most of those people certainly don't consider themselves rich.

I am the youngest of six. My father has been unemployed more in my life than he's been employed. I don't come from a rich family, although I'm a Tory; I'm told I'm rich all the time, but I never understood that.

**Mr Owens:** You're rich in experience.

**Mr Jim Wilson:** I worry that this debate is going to be another poor versus rich people, a divide and conquer society which I don't think helps anyone. I wonder if you have any comment on that, because I think the government should be responsive to the entire sector of society.

**Mr Clarke:** Government should be moving in the direction of a universally accessible post-secondary education system that is accessible to poor people and is accessible to others too. I don't think there should be ruinous debt loads incurred for people generally; I think that should be the goal of social policy. In terms of the enmity between rich and poor, I suppose I have to plead guilty to inciting some of that, but I think perhaps the poor have been somewhat provoked.

**Mr Jim Wilson:** I agree.

**Mr Daigeler:** You've done very well in providing us with this overall framework in which to look at this question, and that's very useful for us because we can get caught up in the particulars of any program and forget what the overall effect of it is. You've spelled that out very clearly, based on your experience. I think you were here when the part-time students were making their presentation, and you may have heard me ask the question there what they meant by providing assistance for students who are in non-credit courses. Were you there?

**Mr Clarke:** No, I wasn't.

**Mr Daigeler:** There was a very interesting comment, and I'm just wondering whether you would like to remark on it as well, that education, in my opinion, unfortunately is still too closely associated with degrees and with colleges and universities. There's also an element, as to what they were talking about, of continuing education going on that doesn't necessarily lead to a degree but is still lifelong learning. It's perhaps more than training.

They were saying that perhaps we should look at some assistance for these students as well. We have the Ontario bursary program which provides limited assistance. I just wonder whether the groups and the people you are in touch with are or would be looking much more at upgrading their educational achievements, even if it's not at a college or a university, if there were more assistance available.

**Mr Clarke:** At the beginning I acknowledged a lack of expertise in the area, and I certainly don't wish to spout forth on things I have limited knowledge of, but it certainly seems true that there are many areas in which education can be pursued outside of university, useful areas that

need to be pursued. I would argue, however, that the whole gambit of higher education is something that low-income people should have equal and fair access to, including university.

**Mr Daigeler:** I can appreciate that. I was just struck by the presenter who said that sometimes people pursue a long education even though they could perhaps achieve the same objective with a different kind of course. They're going after a four-year course because that's required, even though the same objective could perhaps be achieved by a two-year course or a different way of providing the education.

When you mentioned that by the year 2000 or so most of the jobs will require 16 years of education, frankly I have some difficulty with that and wonder to what extent that 16 years is driven by interest groups that simply say, "Well, in order to be this you have to have had that many years of education," rather than to say, "Is it really necessary to have 16 years in order to have that qualification?" I just raise that as an issue I'm personally still struggling with.

**The Acting Chair:** Mrs Mathysen, you've been very patient this afternoon. We've got two minutes left. Do you want to use it for your questions?

**Mrs Irene Mathysen (Middlesex):** I have to admit there are about 10 questions I would like to ask, but I am going to restrict myself. We heard from the Ontario Federation of Students that a grants-only program would be the best solution and that it should be funded by progressive taxation. Could you comment on that, please, John?

**Mr Clarke:** I can only concur. I think the notion of a grants-based system is the only reasonable way to provide equity. It's the only reasonable way to ensure that in the final analysis, it isn't being wealthy or having wealthy parents that determines how far up the educational rung you can go. To introduce such a system is only a partial equalization. The whole question of one's background, the whole question of one's social environment, would still place low-income people under enormous disadvantages.

As to the question of funding it through a progressive tax system and the needs to make that tax system infinitely more progressive than it is at the moment, I would certainly think that our coalition will be more than ready to join OFS in raising such a demand.

**The Acting Chair:** Thank you very much, Mr Clarke, for coming. We often hear you and sometimes see you on TV, and then we get the opportunity to see you in person from time to time.

The committee will be adjourned for this evening. We are going to meet in committee room 2 again tomorrow at 3:30. Those are the plans as of this moment. You will be informed if there are any changes.

The committee adjourned at 1728.





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\*In attendance / présents

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## Legislative Assembly of Ontario

Second session, 35th Parliament

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Tuesday 12 May 1992

## Standing committee on social development

Student assistance

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

# Journal des débats (Hansard)

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 12 May 1992

The committee met at 1542 in committee room 2.

### STUDENT ASSISTANCE

Resuming consideration of the designated matter pursuant to standing order 123, relating to student assistance.

**The Acting Chair (Mr Michael A. Brown):** The standing committee on social development will come to order. The business of the committee today is to consider standing order 123, from the Liberal caucus, relating to OSAP.

### ASSOCIATION OF COLLEGES OF APPLIED ARTS AND TECHNOLOGY OF ONTARIO

**The Acting Chair:** Our first presenter this afternoon will be from the Association of Colleges of Applied Arts and Technology of Ontario, Chris Trump, executive director, and Wolf-Dieter Klaus, manager, financial aid and awards.

Gentlemen, you have been allocated half an hour by the committee. We always enjoy some opportunity to speak with you after your presentation. If you would introduce yourselves for the purposes of Hansard, you may begin.

**Mr Christopher Trump:** I'm Christopher Trump, executive director of the Association of Colleges of Applied Arts and Technology of Ontario. My colleague Dieter Klaus will introduce himself very shortly.

Let me introduce the colleges of applied arts and technology. There are 23 of them in Ontario, from Cornwall to Kenora, from Niagara to Moosonee, where we have the James Bay campus of Northern College.

We have at the moment the highest enrolment ever of full-time post-secondary: 114,000 students. The enrolment climbed 10.5% last fall and the fall before by 5% over the previous year, this following on a five-year period of relative stability. As you may have read in the Toronto Star today, the report accurately reflects that we now have an application increase of 20% to 30% over last year. We do not as yet have a system of determining whether these are all individuals or whether they're individuals who, in their desperation to be in a program, have applied to five, six, 10 or 12 programs. We will know that when the time comes to admit students for the coming fall.

Part of this is driven by the fact that we are in a recession. Part of the nature of this recession is that of the layoffs that have taken place. Some 80% of those jobs are gone. What it means is that there is an individual decision being made which, in aggregate, adds up to these numbers—retrofit, more skills, training, if not the colleges, who? We are in many respects that line of higher education which will see us through this very difficult period.

Financial aid for students is an integral part of that effort. Since 1987, the colleges have been permitted to build dormitories. Prior to that, we were viewed as community colleges and were not allowed to build dormitories.

Recognizing the fact that there are areas of specialization, for someone who is interested in ground control, for example, which is safety in the mines, the finest program in Canada is located at Cambrian College. Students come not only from Ontario but from elsewhere to enrol in that program, and there are similar programs in other colleges that specialize.

Once students have left home, their financial needs increase. Once they have dependants, their financial need increases. The average age of the students now is 24, which means that your traditional, full-time, right-out-of-high-school post-secondary student is no more. We have a diversity and a range of needs now, so I think it's very timely that you're holding this hearing to examine ways in which we can, in a system that is strained at the moment—OSAP is \$50 million over budget, I believe, the last time I heard. Yes, we need more money, but perhaps there are different ways of approaching the dilemma. What we would really like to do in our brief introduction and with Dieter Klaus's exposition to you is to outline one approach we're taking at the colleges which we're urging on you. Of course we would then be happy to answer your questions as well.

**Mr Wolf-Dieter Klaus:** I am a financial aid administrator at Mohawk College. I've been in this job now for eight years, so I've learned to deal with the program, as well as day-to-day contact with the students on the one hand, so it's real grass-roots experience; on the other hand, I've been involved on the provincial level, through our association, with the wider issues and philosophies of OSAP, including last summer's consultation report that you probably are aware of.

In this particular setting I'd like to confine my comments to the more narrow perspective at hand, namely, how and whether there should be a shift from the present grant-loan mix to loan only or whatever combination, although I think it would be of benefit to this committee to examine and discuss student financial aid in a much wider context.

There is no question among college FAAs—and that's what we call ourselves, financial aid administrators—that the present student assistance program needs a fundamental overhaul. It's now 27 years old. It was instituted at a time when the typical student was 18 years old, coming straight from high school. Since that time, all kinds of minor adjustments and major adjustments were made and it's now a hodgepodge of programs, rules and regulations which truly do not meet the needs of our present student population.

At the colleges right now, I would guess—and this is not a researched figure—that up to 40% of our students do not fit the typical 18-year-old high school leaver. They are sole-support parents, married students, older people who have lost their jobs who are even in their 40s.

The present student assistance program therefore has major deficiencies. There are unrealistically low cost

allowances on the one hand; on the other hand there are unrealistically high expectations for contributions from parents and spouses. There are high loan debts, even with the present grant component, and much too rigid a loan repayment requirement, which very often leads to defaults. There is a real lack of options for those needy students who are ineligible for the present grant and subsidized loan assistance.

Any changes to a provincial student assistance program must address these deficiencies at the same time. A simple shifting of grant to loan assistance will only exacerbate some of those deficiencies, not alleviate others and certainly create some more problems. We understand the government is looking for a more efficient and effective use of tax dollars and of course the student assistance program is one of the programs it is looking at. Shifting from grant to loan may look cheaper on the surface, but cheaper is not necessarily better. Cheaper does not necessarily mean more efficient or more effective, especially when you compare to the results and the objectives of the program.

I think the basic objectives are still true today. At first glance, the objectives are to assist students to attend post-secondary education, but obviously it's not just for the individual. Society as a whole benefits and that's why we are willing to put money into such a program. It allows us to tap a pool of talent, ability and resources, especially human resources, that our society would normally not have because these students couldn't go to post-secondary.

It's the education and the training of our workforce for our future and—this is a motherhood issue nowadays—to be competitive in the global economy. But it needs to be emphasized that this is the long-term objective of such a program. It is important and it's a very critical objective to be met for the wellbeing of all of us for the long term. Therefore, we need to put society's resources into that direction.

Obviously, affordability and financial feasibility must be an important factor. However, short-term budget considerations really should not prescribe changes to a government program with long-term objectives and results. We need long-term changes. I think a great effort was made last summer when there was a long consultation process of several working groups and all kinds of stakeholders in the program. Colleges, universities, students, labour, all kinds of organizations were represented. There is a very good consultation record of that review. We feel any long-term changes to the program should be guided by these recommendations contained in the Reference Group Consultation Record of last summer's Ontario student financial assistance review.

We feel that an effective assistance program must contain a strong grant component. This is necessary to avoid unnecessary, unreasonable debt loads to our future students. Even with the grant program right now, college students who spend three or four years at the college end up with loan debts of up to \$20,000. That's with the present grant program. We have to realize that college graduates differ in some aspects from university graduates; not all of them go into highly lucrative careers.

Sure, our computer systems technologists may make good money. Our early childhood education graduates,

however, as you know, have very small incomes once they are finished. If they have high loan debts, they will have problems repaying them. It would be a very unfair burden to them as they provide such an important and critical function in our society.

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Second, it's important to have a grant component to ensure that students are not deterred from embarking on post-secondary studies due to a fear of unmanageable debt loads as a perceived barrier. As already mentioned, we would lose a large number of our talent pool and our population. But grant alone is not necessarily the answer; it has to be a fair distribution of the grant assistance. Just to give you an idea of what happens right now, some students get 90% grant, \$4,000 or \$5,000, and very little loan, while other students get all loan, based on the present rules of the system. We do not feel that is necessarily the way to go.

The grant component should be strong but more fairly distributed so that all students have a reduced debt load at the end and all students have accessibility to some grant assistance. How this is done—there are many variables possible. It could be done on a fixed amount or a fixed percentage. I think the colleges would prefer a fixed percentage, to be fair within the whole system. The background of the student should be less relevant than what they're doing in their education.

At the same time, it allows for increased loan assistance because there is more bang for the buck in the loan area than in the grant area. If there is an increase, this increased loan assistance must result in adjustments of allowable costs to realistic levels, and in the consultation record we described a market basket approach. On the other hand, the parental-spousal contribution tables have to be adjusted to realistic levels. Right now the personal living allowance for all students is substantially lower than general welfare assistance payments.

As we have such a new student mix of married and single students, we cannot expect the traditional student who is 18 years old and can handle being below the poverty line for two or three years or more. As this will result in a higher student loan debt, it must be balanced by a flexible repayment option, by debt counselling and forgiveness, in the case of the student unable to repay the loan. The debt counselling should happen before the student starts accumulating debt, during the student having the debt so they know how much to take, and of course also after, how to manage that debt load. That is not the case at all with the present system.

The major part of how to manage that debt should be an income-contingent repayment plan. We feel the present rigid system of paying back at a set amount does disadvantage those students who do not have the lucrative earnings later. An income-contingent repayment plan, and that has to be stressed, is in itself first of all just a concept about paying according to your ability to repay the loan.

There are many permutations of how such a plan would function. It would have to be a very fine balance between subsidy on the one hand with the government and the ability of the student to pay. One can make it very steep,



one can make it low with high costs to the government, or low costs. It depends totally on the various numbers.

The obvious case to show how this would work: If you talk about a dental student who has maybe accumulated \$30,000 but has an income very quickly of over \$100,000, that student could pay his or her loan back very quickly with a high rising percentage of his or her income, as opposed to an ECE student who probably would need a very low repayment percentage of his or her income in order to be fair. We leave it to the challenge of the government's financial expert to find these balances.

Last, I would like to talk of a group of students who are presently totally excluded from this system. There are many students who, for the rules of the present program or because their parents arbitrarily refuse to assist them or whose appeals are not accepted for sometimes not very logical reasons, have the option of acquiring the assistance of a student loan with total cost recovery. What that means is that it's a loan that is not subsidized but provided to a student who can then, once he's finished with his education, repay it, including all the interest the loan bears for the time.

To summarize the main points of my presentation, Ontario's community colleges support a major change to the present student financial assistance in Ontario. The development of a new program must be guided by the recommendations of the 1991 review consultation record and include a strong grant component, adjustments of allowable expenses and contribution tables for parents and spouses to realistic levels, a subsidized loan program with a flexible income-contingent loan repayment plan, and as a third component, a full-cost recovery loan program with income-contingent loan repayment.

**The Acting Chair:** Members have expressed an interest. We have about four and a half minutes for each party.

**Mr Drummond White (Durham Centre):** Thank you very much for your presentation, and nice meeting you again, Mr Trump. It was only last weekend when we chatted about this same issue.

The issue you brought forth was a grant component as part of what's being referred to as an ICRP, an income-contingent repayment plan. What portion of the grant-loan would be the grant?

**Mr Klaus:** We're really talking about a three-level program. The grant would of course be non-repayable. We're not talking about income repayment at all. That would be one part of the component.

**Mr White:** You spoke about a fixed percentage of the total package being the grant.

**Mr Klaus:** Right. I have no fixed percentage in mind, but the minimum we would be looking at would be what I call pure educational costs—fees, incidental fees, book and equipment costs, local travel—sort of the core costs any student has, whether he lives at home or not, which probably would amount—this is just a guess at this point—to maybe anywhere between 25% and 35% of the overall costs. That depends on the student's program etc, because as you know, the real costs can be—I'm not talking about the costs as they are allowed by the program. With the college program, if you live at home you're talking of at

least \$3,500 to \$4,000 in costs, and if you live away from home you're talking of around \$8,000 to \$10,000, depending on what the program is.

**Mr White:** So what you're saying is that a fixed percentage of the amount as being grant will be a fixed percentage, which would vary, a variable fixed percentage?

**Mr Klaus:** That's correct. If a student is eligible for \$5,000, a third of that should be given in grant, the rest in subsidized loan with income-contingent repayment.

**Mr White:** If the student is eligible for \$2,000, it would still be one third?

**Mr Klaus:** I would consider that fair. Otherwise you're talking about a fixed amount.

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**Mr White:** Okay. When you talk about a variable repayment plan based upon income and the type of program involved, how would you be sure that while you might set up a fairly decent, fair system right now, in five years' time, in 10 years' time some future ministry or bureaucrat might change that in a way that just totally eliminates the fairness of that contingency repayment? How could you be sure that there's an ongoing expectation of fairness for those students?

**Mr Klaus:** I could not ensure that, because any Legislature that legislates something can change that, obviously. It is up to the fairness of the government and the Legislature to keep it fair. Obviously I cannot ensure that at all. Even on the original setup, I cannot ensure it is fair. Hopefully it is fair if one looks at the real costs and the real incomes and sees how much of a loan a person in that income range can bear.

Obviously, you have to adjust such levels and percentages on a yearly review; you cannot just let it sit for ever. This is part of the problem of the present program. Some of the amounts we are talking about in the present program have been set or fixed years ago and not adjusted, and therefore it has fallen back so that now many of our students receive—are allowed—only 70% of the real costs, and I'm talking of minimum costs, which means they all have to work.

Most students have no problems working. However, there are many programs where you cannot work as much as you should to just survive, because some programs are very, very tight and the hours spent at school or in labs or whatever it might be do not allow the extra work. I don't think any of our students can survive nowadays on OSAP alone, even if they get the full shot.

**Mr White:** That's certainly true, but when a student enters—

**The Acting Chair:** Excuse me, Mr White. We appreciate it. Mr Daigler.

**Mr Hans Daigler (Nepean):** Thank you for making a presentation today. You're presenting for two organizations, I presume.

**Mr Klaus:** I represent the college financial aid administrators today, who are within the ACAATO structure.

**Mr Daigler:** Okay. I'm asking that because I was wondering, on the review committee that the ministry still



has in place that prepared the report to which you referred, I presume ACAA was represented and still is, and is it financially represented as well?

**Mr Klaus:** Yes, we are.

**Mr Daigeler:** I think we kind of found out that this income contingency idea is a relatively recent thought that has come to the fore and is perhaps being pushed in particular by the Council of Ontario Universities. Since you have been involved in this review, do you agree that this idea has, all of a sudden, come up? What are the reasons for this coming up so quickly? Second, are you actively involved in the campaign by the COU to move forward on this income contingency thought?

**Mr Klaus:** Are you addressing me?

**Mr Daigeler:** Whomever.

**Mr Klaus:** The reason it has come to the fore among financial administrators is the reality that our students have problems repaying the present loans the way they're structured. That is where we are coming from. There have been a high number of defaults, as you're probably aware, I think at the federal government level—we are talking of close to \$1 billion in receivables—and the repayment of loans right now is totally rigid. Whether you make \$100,000 or \$15,000, you pay the same amount. That would alleviate that and adjust it to ability to repay.

I cannot talk for COU; I'm not involved with COU whatsoever. My understanding, and this is my interpretation, is that they're probably coming from a little bit of a different point of view. While I have talked about a mix and match of grant, subsidized loan and cost-recovery loan, if I understand their position correctly, they're leaning more towards a total loan system with total cost recovery, which probably would allow very high loans and would probably be quite an effective use for university students.

However, the college population has very different groups in terms of (a) where they're coming from and (b) where they're going. You cannot compare, and that's why I always talk about early childhood education grads, because they're at the bottom. They have three years of education behind them and end up earning \$20,000 a year. They just are not in the same ballpark, and therefore a flexible repayment program is essential for these people to manage the loans.

**Mr Daigeler:** So really what you are interested in is more flexibility in their repayment.

**Mr Klaus:** Correct.

**Mr Daigeler:** I was just a little bit struck by your presentation, because you seemed to be arguing at first—I'm referring to this written presentation—that the high loan debt load is one of the serious problems with the existing system.

**Mr Klaus:** Right.

**Mr Daigeler:** On the other hand then, at the end you're saying you support the principle of an income-contingent repayment plan which could increase even further that high debt load, so that's why I'm kind of wondering where you're coming from.

**Mr Klaus:** Right now you have a flat repayment. Whether you make \$20,000 or \$100,000, you pay X dollars, if there's a schedule. Income contingency means the same people at a low end pay a lower level, and the curve goes up. The \$100,000 person pays maybe \$20,000 a year, while the other pays \$2,000 on the same debt.

**Mr Daigeler:** On the current—

**Mr Klaus:** No, that's income-contingent.

**Acting Chair:** Mr Wilson.

**Mr Jim Wilson (Simcoe West):** Thank you, Mr Chairman. If Mr Daigeler would like an extra minute, he can have mine.

**Mr Daigeler:** Okay, thanks very much. I seem to sense that you are using a somewhat different definition for the income contingency plan than what we've been talking about so far. I think that what you seem to be concerned about, and I think it's a very legitimate concern, is that under the existing loan structure there should be more flexibility according to one's income to pay back that loan, whereas the income contingency plan, the way we've been talking about it up to now, is to move that whole load into loans only.

**Mr Klaus:** Yes, but that is not really what income-contingent is about. That is only the end phase. You have two phases: the front end, what do you give in assistance? then the second phase, how do you pay it back? So if you talk of more loan, you're talking—if you approve only loan, yes, the debt will rise higher and a solution to some of the problems would be income contingency as opposed to a rigid payment. But even the present system can use an income-contingent repayment, so you're talking front end and back end.

**Mr Jim Wilson:** I just want to thank Mr Trump and Mr Klaus for appearing today. I think I thoroughly understood your presentation. It's been very consistent with what we've been hearing to date and I really have no questions at this time.

**The Acting Chair:** Thank you, gentlemen, for taking the time to come down and see us today.

**Mr Klaus:** It's our pleasure; thank you.

#### ONTARIO ASSOCIATION OF STUDENT FINANCIAL AID ADMINISTRATORS

**The Acting Chair:** Our next presentation will come from the Ontario Association of Student Financial Aid Administrators, David Sidebottom. Good afternoon. The committee has allotted you 20 minutes for your presentation. The members always appreciate a few minutes to discuss your presentation with you. You may begin by introducing yourself for the purposes of Hansard.

**Mr David Sidebottom:** Good afternoon. My name is David Sidebottom. I'm the chair of the Ontario Association of Student Financial Aid Administrators. The other hat I wear is as the financial aid manager at the office of admissions and awards of the University of Toronto.

I would like to thank the committee for giving me the opportunity to come here today to address you on these very important issues. I'd like to begin by sharing with you

a bit of information on the role we currently play in the promotion of accessibility to post-secondary education.

Every college, every university in Ontario has an office of student awards or an office of financial aid on campus. We're employed by that institution to assist our students, and some of the different activities we're involved in are scholarships and bursaries. Bursaries are awards that are based on financial need. They could come from internal or external sources. We help students with financial planning, with budgeting, with debt load counselling. We go out to high schools and talk to students and parents about financial aid.

While OSAP and work study form a great deal of our responsibilities, we also have to be cognizant of other provincial aid programs. One of the things you'll probably learn through this is that every province in Canada has a different student aid program; they have different theories.

We also have to be familiar with United States guaranteed student loans, especially in the university community where we have American citizens coming up to study at our graduate schools.

By and large, the largest volume of students we see in our offices are students applying for OSAP, and our role, just to sketch that out for you, is that students apply through us. They're submitting their applications to our offices. We're preparing them and forwarding them to the government. We then receive the funds back for the students. We notify the students of their awards and we counsel the students about appeals.

I think, if you asked a student what is the face of OSAP, he would say it's the financial aid office.

Our professional association is OASFAA, to use the acronym, and it consists of 47 member institutions here in Ontario. In the realm of post-secondary education, we're somewhat of a unique group in that we comprise membership from the universities and the community colleges as well as some of the larger private vocational schools. I'm not aware of any other organization that combines a membership from these different realms.

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Over the years we've been very active in advocating changes to the OSAP program, both in policy and procedure. OSAP policy reviews come around about once every 15 years; we do policy reviews every year with the government. I've arranged to have you receive a discussion paper that we've produced on the future role of financial assistance in Ontario. Some of the things I mention today are obviously going to be included in there.

Let me begin by stating that it's no secret that the present OSAP program is in need of an overhaul. The present structure of a grant-first program dates back to 1978. The policy review that was started last May is the first major review of that program since 1978, and we were certainly very pleased to see that initiative.

I think the reference group consultation record, which was put together in September, is a good summary of some of the inadequacies in the present program. We can look at things like unrealistic cost allowances and recognize regional differences. It's long been known that your OSAP

dollars go farther if you're studying outside of Toronto than in Toronto.

The assumption of family support is a major problem for quite a few students, with arbitrary limits on grant eligibility. We can look at the discriminatory ceilings on grant assistance for different types of students. We can look at the low ceilings on loan assistance. Other areas include lack of coordination with other government programs like social assistance, family benefits, vocational rehab—the list goes on and on. Finally, after graduation, there are the problematic repayment provisions.

I thought the reference group consultation record did a very good job in identifying a lot of the inadequacies of the program, but let's look at the issue of an all-loan program. That's what we're here to talk about today.

I'm sure you've heard or you're going to hear presentations that grants do not increase accessibility to post-secondary education. I'm sure you're going to get statistics that freezing tuition fees does not improve accessibility. Those statistics are correct.

Funding alone is not going to ensure accessibility to post-secondary education. You can look at that from a commonsense point of view. What determines whether someone goes on to post-secondary studies? For a large majority of our students here in Ontario, it's your family background, your family values, your ambition. A lot of these factors impact on who goes on to post-secondary education. Student aid certainly helps. It plays a large role, but I would say that's not the prime motivator.

I think, though, we have to look at the history of grant funding here in Ontario and the fact that since 1978, Ontario has been the only province in Canada that awards grant moneys first. The move from a situation like that to an all-loan program would, I think, be a bad move. I think it would have tremendous repercussions with the message the province would be sending out to students here in Ontario.

I feel, and we as an association feel, that grants should be retained as part of the Ontario student assistance program. I'm going to talk a bit more about that in a few moments.

One of the things we see on our campus is that the post-secondary student population has undergone vast changes in the past 15 years. It is obviously a much more diverse student population out there, many people from different backgrounds, many people with different needs.

One of the most astounding statistics I've heard, if we look at Ryerson's first-year enrolment, is that 50% of its students do not come directly from secondary school. We've also witnessed over the past few years a tremendous increase in program diversity both at the colleges and the universities, as well as in the private sector.

What we as financial aid administrators feel is that we need a program here in Ontario that is flexible enough to respond to the wide diversity out there. That is why we're recommending a broad range of student aid that can be tailored or packaged to meet student needs.

Some of the things we would see in this package of student aid would be grant moneys, and we would certainly support the issue of tuition grants for students from low-income backgrounds. We would also look at the continuation of interest-free student loans. We've actively



promoted for years the concept of interest-bearing student loans. These are loans that our friends south of the border have; they're used for students who have unusual circumstances. Parents can borrow these loans. We feel there's definitely a place in the post-secondary sector for interest-bearing student loans.

A program that doesn't get enough attention but is probably one of the best programs the Ontario government funds is the Ontario work/study plan. This is a program of part-time jobs on campus, where students can earn money. It helps to supplement what they don't have from OSAP and what they're not getting from their families. It's also something you can use to reduce your debt load. We would certainly like to see an expansion of work/study.

We take some of these components and put them together with some of the funding we have at our institutions: scholarships, bursaries. What we would like to do is put a package together for students—again, I'm copying this from our friends south of the border—packaged student aid.

Along with all these, of course, we have to look at what the long-term implications are. I've talked about tuition bursaries. Right now that would be a reduction in grant funding from what is currently offered. We would like to see some of this money channelled towards some of these other possibilities so that students would have better funding or so that more students could access the program.

That would obviously increase debt load. I think we would have to look at the repayment obligations, and as we certainly have already discussed today—I'm sure you've heard—the current repayment situation is not very flexible. Students begin paying back their student loans at the same rate as they will five or 10 years after graduation. Students need a break in those first few years after graduation.

We would certainly be interested in supporting some of the initiatives that come out of income-contingent repayment. Again, we're supporting those more for the features and the flexibility those offer students.

I'd also like to address the issue of whether there should be a linkage to merit in OSAP. OSAP has been a needs-based program, and we would like to see OSAP continue to be a needs-based program. If merit is a consideration, if we are looking at ways of rewarding academic excellence or if we're looking at ways of promoting enrolment in certain programs, then I would say there are other measures that can be taken through scholarships in that direction; so keep OSAP a needs-based program.

I'd also like to mention a bit about loan remission. Loan remission is used quite extensively by some of the other provinces in Canada. It would forgive a percentage of a student's loans upon successful completion of his or her studies. We have some concerns about loan remission in that students really don't know what they owe, what their final debt load will be, until after they've graduated and they find out what percentage of loan would be remitted.

One issue that I think needs to be stressed again and again is communication. Students need to be informed when they're borrowing money; they need to know what the implications are. They need to know what the interest rate will be. They should be informed borrowers. Currently they don't have this information up front, so we would

have very strong reservations against the introduction of a loan remission program here in Ontario.

In closing, what I would like to say, I guess, is that in any review of the Ontario student assistance program let's look to the long term. Let's not have our vision diminished by short-term considerations.

**The Acting Chair:** Just for the information of members, each caucus has about two and a half minutes, with Mr Daigeler, Mr Wilson and Mr Martin on my list. Mr Daigeler.

**Mr Daigeler:** Thank you for what I think is a very useful description of the concerns and problems you are experiencing. Perhaps one of the side products of these hearings is that we're getting an excellent view of the OSAP program at large. I think your written remarks, with the Hansard record, will form a useful basis for further study and action by all of us. Thank you for putting this together.

Yesterday a representative of the college community put forward one major complaint about OSAP. I just wondered, from your experience, whether it's confirmed that it takes too long, once they've made the application, to get any money, even if they're approved for a loan, a grant or whatever and that simply living in that interim is extremely difficult for the students. Is that a common occurrence? Is that a common complaint? What do you think could be done about it?

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**Mr Sidebottom:** I would say probably the most common question we get about OSAP in our office isn't "I'm not getting enough funding"; it's "When will my funds be in?" There have been major problems over the years in the delivery system related to OSAP. We've been working with the student support branch to try and improve some of these.

**Mr Daigeler:** Did you say over the year or over the years?

**Mr Sidebottom:** Over the years. We have funds in our offices in the form of emergency loans that we lend students to tide them over. We defer tuition fees if someone's award has been delayed unreasonably and we waive interest charges on fees. So, as I mentioned, probably the most significant problem I've seen over the years is that it's simply taken too long to get student funding.

The student support branch has taken some significant initiatives in this regard. They'll now be processing applications directly out of Thunder Bay using their own computer system. Previously they bought time on the central computer here. There will be a large number of advantages that will certainly accrue from that.

**Mr Jim Wilson:** As Mr Daigeler has pointed out, in addition to your comments about the package of student aid, which I very much appreciate—and in fact I agree with much of what you said—in your written brief you touch on information, the timeliness of the application process and disbursement, technical capabilities and coordination concerning the administration. What do you figure, in your experience, is the cost of these administrative hurdles right now in the system?



**Mr Sidebottom:** What I have heard in terms of administrative costs—and I'm getting this at second hand from the branch—is that it will ultimately save money by having control of its own hardware in Thunder Bay and the advantages of that will accrue. If you cost that over a period of years—

**Mr Jim Wilson:** You mean the government office.

**Mr Sidebottom:** Yes.

**Mr Jim Wilson:** But your paper mentions there should be software available to the institutions also and on-line capability and direct deposit, I assume.

**Mr Sidebottom:** Yes.

**Mr Jim Wilson:** Are you making any progress with successive governments on that?

**Mr Sidebottom:** I would say with the student support branch we are doing much better than we were. There are new people there and they certainly seem more responsive than some of the people in the past. If we wanted to look at the federal government and the Canada student loan program, we have real problems there. There are major problems in communication between the Canada student loan program and institutions, banks. One of the things people often don't realize is that when you look at the amount of OSAP funds awarded, a good chunk, probably 50%, are moneys from the federal government in the form of Canada student loans.

**Mr Tony Martin (Sault Ste Marie):** I appreciate the fact that you come from a place where you deal with this directly every day in your job, and the knowledge and understanding you bring. Two or three questions in one, if you don't mind: Are you part of the review that's ongoing now?

**Mr Sidebottom:** Yes.

**Mr Martin:** How satisfied are you with that process? Number two, you talked about a package; what would be in that package? Number three, it seems to me there is a philosophic difference of opinion beginning to evolve here. Some feel that the institution and the government collectively should be responsible for providing opportunity to the populace out there for education. Then there's the other side that more and more we might count on the individual himself or herself to be responsible for coming up with a greater part of the cost of doing that. The bottom line for me is how do we get a chunk of money into the system, whether we bring it this way or that way or up from underneath? Anyway, I leave that with you.

**Mr Sidebottom:** Policy review: I think we've been relatively pleased with the way it's gone. We've been, I guess, happy that the government has undertaken this major review of OSAP. As I said, it's the first since 1978.

Your second question was, how would we go about packaging student aid?

**Mr Martin:** What would be the components of the package that you spoke of?

**Mr Sidebottom:** That would vary depending on the individual student, the program he's in. It could possibly consist of something of each. It could consist of a tuition bursary if it's a low-income individual. It could consist of

an interest-free loan. They may be able, if they wish, to access an interest-bearing loan. There could be a work-study job on campus for that student. There could be a bursary.

In a sense we're doing that, maybe by a more informal process, right at the moment in that we look at institutional moneys in the form of bursaries for students who don't get enough funding from OSAP or run into unexpected expenses. We allow the students to work at work-study positions. In a sense we're doing that. I'd like to see it a bit more formalized.

And your final—

**Mr Martin:** Was the bigger one. It was the philosophic stance of who should be paying for education—the system or the individual himself?

**The Acting Chair:** The final one is going to have to wait, unfortunately, to another time. The time has expired. Thank you very much for appearing before us.

**Mr Martin,** when you're asking questions, it's helpful if you speak more closely into the microphone.

1630

DAVID STAGER

**The Acting Chair:** Next we have David Stager, professor of economics, the University of Toronto. Good afternoon and welcome to the committee. As you're aware, the committee has allocated 20 minutes. We always appreciate some of that time to have a discussion with you. You may begin.

**Dr David Stager:** Because of the limited time I will do the unusual, and that is read from a prepared text, but try to do it as informally as possible so that we will have time for discussion.

I certainly welcome this invitation to make a presentation to you because the topic covers several issues that have been central to my research and teaching in the last many years, if not decades. I enclosed with my material a brief biography and you'll see some of the articles, books and so on that I have written on this set of issues.

First, with respect to accessibility, which is of course a major term in your mandate at the moment, each successive Ontario government has affirmed its commitment to increasing accessibility to post-secondary education. Efforts to do this have been based principally on low tuition fees and student grants, especially since the 1960s. But various studies have concluded that programs of this kind have very little effect on the size and socioeconomic composition of the student population, whether this is in Ontario, other provinces or other countries.

In Australia, for example, when they abolished fees in 1974 they found that there was very little effect on the size and composition of their enrolment. It's led them very recently to adopt a very different financing scheme, which we can come back to if time permits. One of the previous speakers already has mentioned that the tuition fee freeze for two decades in Quebec had less effect on enrolment than the continuation of the tuition fee policy did in Ontario.

Student grants based on parental income have also been found to be inefficient for increasing accessibility.

Many students who benefit would have enrolled anyway, so there is very little measurable impact, and we are paying a very high price for the additional. Moreover, as you've heard many times from previous speakers, the means tests based on parental income are increasingly inappropriate for the changing family structure and relationships of the 1990s.

Several other factors have a much stronger impact, rather than lower fees or higher grants, on the probability that a student will pursue university education. These other factors, principally parents' education, ethnic origin, peer groups and school environment, are all very important and I have summarized them in a figure which appears on the second page of the material I've presented to you.

We can see just by looking casually that accessibility really consists of three factors: eligibility, the motivation of the student and the availability of the educational opportunity. All of these trace back ultimately to family and social conditions, parents' education, occupation, home environment, ethnicity, age, sex and school environment. This is the outcome, really, of a massive survey of the literature on accessibility I had undertaken a few years ago.

I would suggest that accessibility can be improved through more effective and less costly means than have been used in the past. The low tuition fee policy in Ontario is maintained at a cost to the taxpayers of about \$100 million a year and, as you now well know, the grants program costs about \$235 million a year.

Combining these for \$335 million, I would suggest we could use that money much more effectively by a targeted accessibility program where we target specific groups. Blacks, native people, disabled persons, single parents and francophones are among those who are usually indicated as the groups that are most in need of encouragement and support to pursue post-secondary education.

Because of the increasing realization that grants and low fees have not been effective, student loans are now replacing grants in many countries. Although it's sometimes argued—and I've heard it each time I have listened to previous speakers here, both today and earlier in your session—that students as graduates are carrying an excessive debt load, I would encourage you to get the facts, if you don't already have them, directly from the Canada student loan administrators in Ottawa.

Just yesterday I got an update from them and every couple of years I try to keep tabs on this. If we look at the average debt load of graduates of Ontario universities, 1989-90, the most recent year for which data are complete and reliable, who graduated with an undergraduate degree and who borrowed from the Canada student loan in their final year, they had an average accumulated Canada student loan of approximately \$7,600. This is far below the kinds of averages we hear quoted rather casually in some of the other briefs.

I would suggest that the ability to repay this loan is not an onerous problem. In fact, you can work it out and it represents in the order of 2% to 4% of the graduate's annual income. None the less, for other reasons, the Canada student loan program of course is being reviewed: major difficulties with the size of defaults and interest subsidies.

I was interested to hear Mr Daigeler suggest that the income-contingent plan was a new idea. A number of these topics, issues and problems indeed have been around for at least the last three decades I've been working on it. All of this has come together, in my mind, in the last year, to lead me to propose something which I'm calling a universal bursary fund for post-secondary students.

This universal or revolving bursary fund is described more fully in a short magazine article which is attached in the material that was distributed to you. It appeared in the University of Toronto graduate magazine last fall and went to about 185,000 U of T graduates. So there are perhaps some of your own constituents who are now familiar with this notion.

There are two essential elements in such a bursary fund. First of all, any student at an approved institution, regardless of the financial means of the student or his or her parents, would be eligible for a bursary equal to the value of the tuition fee and required books in any undergraduate program. Second, this bursary would be repaid to the fund in proportion to the student's future annual income.

This arrangement is the basis for the revolving bursary fund. Repayments could gradually replenish most or even all of the fund. Relatively small amounts would be required each year to top it up. These top-up amounts would represent the public subsidy to the scheme.

The bursary program would free students from financial dependence on their parents, means-tested grants and loans could gradually be replaced by an expansion of this program and, most important, any public subsidy would be related to the future income level of the graduates rather than to the current level of their parents. In other words, we would treat students as independent adults for purposes of financial assistance, just as we do in so many other programs and legislation.

My proposal is certainly not original. Some countries, including Australia, Sweden and the United Kingdom, have already incorporated this income-contingent repayment concept into their student assistance plans. Various commissions, both federal and provincial, and task forces have proposed contingent repayment student loan programs, but many people seem not to understand the contingent aspect of the repayments because they focus on the word "loan." It may be that the concept is more easily understood and accepted if we think of repayable bursaries rather than forgivable loans. Certainly I've had a number of people, including a number of politicians, say that there is no way we should develop a culture that depends on forgivable loans but that somehow repayable bursaries seem more acceptable.

A repayable bursary program based on the contingent repayment concept would include the following features. The program would be administered by a government-sponsored but arm's-length agency that would establish a fund from which it made advances directly to students. The funds would be raised initially by issuing government-guaranteed bonds. Later, in the order of 10 to 15 years, depending on the arrangements for the startup, the major source of the funding would be the payments received



from graduates through the income tax system and forwarded to the bursary agency.

Any eligible student could receive a bursary equal to, as I suggested, the tuition fee and the cost of books, for example. A student's contract with the agency would state the conditions of repayment, including the percentage of annual income to be paid, the maximum number of years during which payments would be required and the interest to be applied. Payments would not be required in any year that an individual's taxable income—and presumably we'd focus on taxable income as the best measure of ability to pay—was below a certain level, and I've suggested the average income of the taxpayers in Ontario.

Finally, an individual who, because of low earnings, had not repaid an amount equal to the advance plus accumulated interest by the end of the repayment period would not be required to make further payments. The outstanding debt would be paid to the agency by the government. This provision—and I think it's important to see it this way—reduces the risks for student borrowers just as the government's guarantee reduces the risk for the lender. It's a double-sided reduction of the risk. If it's fair for government to reduce the risk to the lender, then it seems that a parallel, symmetrical case can be made for reducing the risk for the borrower.

This outline obviously raises questions about the financial magnitudes involved, and I think this is a fairly new contribution to the discussion. Certainly I have written about income-contingent plans for many years, but have not had the opportunity to be able to work through the financial numbers we could expect. How much would the fund need to borrow annually? How long would it take the average student to make the repayments? What would the government's costs be for the forgiven debt and for the annual subsidy if that was part of the program?

These questions can be addressed by testing various policy options in a simulation model based on the flow of funds for each annual cohort of students entering the post-secondary system. In the program simulated here I make the following assumptions. They are simply for illustration. What is marvellous about this program is its considerable flexibility. You can plug in all kinds of "what ifs" to test the results.

First, the bursaries would be available only to Ontario residents who are enrolled in undergraduate programs at Ontario institutions. All eligible students would participate in the program. We'd have 100% participation, and obviously that takes us to the maximum size of the program. The bursary would be equal to the program tuition fee. The fund's borrowing rate—and here I'm using real interest rates, because since inflation is affecting both the inflow and the outflow in the same way, the simplest way to deal with that is to net out inflation to begin with and deal with things in real terms or constant dollars. So if we're dealing with a real interest rate to the fund of 3%, for example, and assume in this case an interest subsidy to the student of 2%, the student's rate is then 1%.

I'm assuming a growth in the economy in real income on a per capita basis of 1%, which, I hope, is fairly conservative for the coming future. Also, I'm assuming an income

threshold, as I said, average to the taxable income for all Ontario taxpayers for 1989, the most recent data available, and that happens to come to \$20,118. I'm also assuming a maximum repayment period of 25 years.

When we plug all those numbers into the simulation model, we get the numbers that come out on table 1. I wouldn't expect you to be able to absorb all of that quickly. Let me simply highlight the outcome.

Table 1 indicates that through the initial startup phase, the annual outflow to students for the bursaries or the advances rises to \$315 million. This is with all of the something like 180,000 full-time-student equivalents in the Ontario universities. Annual payments from graduates to the fund exceed the outflow of advances by the year 2009, really not that far away, and in the following years.

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The debt level for the fund when repayments exceed outflows—in other words, when this becomes in that sense a self-financing fund, when repayments from graduates are equal to or greater than the payments out to students—at that level, the debt has reached a level of \$3 billion. The agency thereafter would need to borrow only the funds required to refinance the debt and to pay any interest costs that were not being subsidized. The annual subsidy payments from the government reach \$60 million in that year, 2009, and then rise annually by less than \$1 million as the fund reaches this plateau.

We have the cost of forgiving the outstanding debts, which I've estimated from a supplementary model, a very complex one because it has to take into account the variation in incomes for every age and gender and program group. The estimate from that is that the cost of forgiven debts—which, of course, don't begin until the end of the repayment period in 25 years, or 2016—would amount to about \$120 million annually. In other words, with the full-blown operation of this fund, we are still looking at something less than the cost of the current accessibility program in Ontario.

In order to emphasize that the results are based on several specific assumptions, I then present in table 2 the simulation results for the case with no interest subsidy and a maximum repayment period reduced to 15 years, so really an extreme opposite, all other values unchanged.

One difference is that the repayments increase more quickly, because of course the higher-income graduates are now paying interest as well as their advance and are staying in longer and paying back more. More important, the government has no annual cost for the subsidy. Its costs are postponed for 15 years in this case, until the cost of forgiven debt commences at about \$200 million.

I also want to emphasize that the forgiven-debt estimates are based on labour force participation rates and employment income levels for men and women, but especially for women, as we see them now, whereas in fact the labour force participation rate, especially of post-secondary graduate women, has been rising quite dramatically and continues to rise. So again, this is in a sense a worst-case scenario. I would not say this for wide publicity because I don't think it's fair, but as it happens, the great bulk of the forgiven debt is from women graduates, only because we



are necessarily relying on the data for the existing labour force participation rates. I would expect to see this forgiven debt drop considerably as women participate even more, and I think it's up to about 85% for young female university graduates.

For the sake of completeness, table 3 then presents the results for the community college sector, based on the same values that are used in table 1, but with the annual advance in this case set equal to the college tuition fee.

Let me say as emphatically as I can, and by way of conclusion, that other combinations of policy parameters could of course be tested, but this little exercise should illustrate the "What if?" experiments that your own committee can undertake. In fact, this model is so user-friendly, I can almost imagine replacing the Nintendo games around Queen's Park with your own little sort of hand-held policymaking tool.

The most important conclusion, however, is that the concept is financially feasible. The essential contribution required from the government of Ontario is the establishment of a student funding agency and the government's guarantee for bonds that would be sold to the major lending institutions. Preliminary discussions I've had with bond dealers indicate that annual borrowing of these magnitudes is quite feasible, especially because the flow of repayments is so stable and reliable when compared with many other investments. Indeed, it's an investment in Ontario's graduates, and I would hope that has to be the strongest, most reliable investment we can make.

**The Acting Chair:** Thank you. Mr Wilson, for a minute, including the answer.

**Mr Jim Wilson:** Professor Stager, I very much appreciate your comments on accessibility. When I served on the governing council of the University of Toronto and on the student council, certainly my firsthand experience was exactly that. We undertook a four-year program to tour around kids from inner-city schools, and the fact was that it wasn't that they couldn't afford to go to university; for the most part, it was just that they had never thought of it. I know the studies you refer to there and would recommend the committee also read those.

You've circulated the magazine article concerning your model. What was the feedback, both from the academic community and the student community?

**Dr Stager:** The academic community, by and large, informally, was very supportive. You may be referring particularly to the faculty organization and the student organization.

**Mr Jim Wilson:** I was thinking of real students and real faculty.

**Dr Stager:** Well, let me deal with the other one quickly first, because I've dealt with them for three decades. I love the ironies of history, again referring to Mr Daigeler's comment.

It was in 1969 that OCUFA, the Ontario Confederation of University Faculty Associations, asked me to undertake a study financed by the Ontario government of the contingent repayment scheme, so it's been sitting in the college library and the ministry library since 1969. Briefly, it didn't fly at that time because Ontario and the other provinces saw it as

a federal scheme, particularly because the federal government was just newly into Canada student loans. We tried to get the feds interested; the feds weren't interested. Several years later when the feds became interested, the provinces weren't interested, and we've been back and forth since. That's why I think there's increasing evidence for Ontario to go it alone.

The student federation, I think understandably, has always said, "We don't want anything that would in any way allow the government off the hook for further grants and lower tuition." That's politics, but I don't think it's a very rational answer to a scheme of this sort.

I teach in the economics of education; there may be some selection bias in the group, but they strongly support it. Of course, I emphatically tell them, "I will find the course interesting only if you challenge me," and so me do. One of the questions on the final exam was, "What would you do about tuition fee policy?"

**The Acting Chair:** And with that, Mr Martin will ask something.

**Mr Martin:** Again, you certainly make some very well-thought-out arguments for this particular route. However, we've had in front of us over the last few days and last week some folks who talked very sincerely about the challenges that will be faced by the poverty community, particularly as they try to access higher learning. You speak a bit here about rechanneling some of the money into education programs so that people actually think about going to university or college. However, Richard Johnston, John Clarke yesterday and the student group who came, said that in spite of all of that there's still the fear of debt, of actually putting yourself in debt for something as nebulous as education in people's perception. How do you see us getting beyond that one with this particular model?

**Dr Stager:** First of all, I think we have to discount the political rhetoric; there is a lot of political rhetoric, and you would expect that in a context of this sort. But beyond that, it's simply not the case that most students fear the debt. In fact, the evidence—again, it's American evidence, partly because we don't do studies and partly because we don't have as many experiments in a sense—is that as soon as you raise the debt level students will fill in the gap, not because it's needed but because it's a good deal. In fact, anybody would be foolish in Ontario not to take up the Canada student loan program as soon as they became independent. I've counselled students to do that, whether or not they needed it, because it is irrational not to do so and students understand that.

I know the fear of debt is greatly exaggerated. Any kind of study has indicated that. Indeed, students from low-income families—there's a person in the United Kingdom who has done extensive writing on student loans, drawing on experience, on empirical evidence from all over the world, and has argued that low-income, single-family mothers are quite prepared to take it on if they understand the arrangements and if there is a feasible repayment program. That, in fact, is why the contingent repayment scheme is developing a lot of momentum, because

the very short repayment period in the Canada student loan, especially with our recent experience with recession, has worried people. But under another arrangement, I certainly wouldn't expect to see any fear of debt. I think it's rhetoric.

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**Mr Daigeler:** Professor Stager, I'm certainly aware that the income contingency plan has been around for a long time, but as you said yourself, it hasn't really gone anywhere since its inception. I find it really ironic, to somewhat the ultimate degree, that we should be considering the serious possibility of an income contingency repayment plan under a government that, when it was in opposition, was moving, at least in terms of its policy, towards a grants-only OSAP. I think that's what the problem is.

I also must say that I do take exception a bit when you say it's political rhetoric when people—for example, last night the representative of the Ontario Coalition Against Poverty was practically pleading with us not to move in this direction. He was speaking from his personal experience with the people he is in touch with, perhaps student leaders—you can use those words—but I think the—

**Dr Stager:** The poverty group is different; I think that is different.

**Mr Daigeler:** Okay, I accept that, then. I don't have any quarrel with your model. As long as we have the assumptions, I think it's well presented, but I think it's basically the philosophical or political assumption. Why should the government move in this direction rather than the opposite one it used to support when they were in opposition, and that's a grants-only?

**Dr Stager:** I think this is the only direction in which we will get some increase in accessibility and do it in a way which is financially feasible given the budgetary constraints of the government. When we look at Australia, the United Kingdom and Sweden already doing it—these are three very different political and economic systems—I think we can learn something from that. We certainly ought to be considering that evidence pretty seriously.

**The Acting Chair:** Thank you for your presentation today. I am sure we could use quite a bit more time, but we don't have it.

#### ONTARIO ASSOCIATION OF CAREER COLLEGES

**The Acting Chair:** The next presentation is from the Ontario Association of Career Colleges, Paul Kitchin and Hartley Nichol. Good afternoon, gentlemen. Would you introduce yourselves for the purposes of Hansard. You have been allocated 20 minutes by the committee. We always appreciate it if there's some time for questions and answers with the members.

**Mr Hartley Nichol:** Thank you very much. My name is Hartley Nichol and I am president of Radio College of Canada, or RCC School of Electronics Technology, and past president of the Ontario Association of Career Colleges. Today with me from Brantford is Paul Kitchin, who is the executive director of the National Association of Career Colleges and also the Ontario Association of Career Colleges. There will be two of us speaking today. Paul is first going

to give a broad-brush overview of the clients who choose to attend private career colleges in Ontario and a broad-brush overview of our industry in Ontario today.

**Mr Paul Kitchin:** Thank you for the opportunity to speak to this group today. As Hartley has said, I am the executive director of the National Association of Career Colleges. This is an organization comprised of a membership of privately owned post-secondary career colleges throughout the country and, with my hat as the executive director of the Ontario association, also schools in the same position in Ontario, the oldest of which began operation in the mid-1800s. Our own organization has been in existence since 1896, so we're approaching 100 years.

We wanted to give you a sense of what these private career colleges are and who the students are so you will better understand the presentation that we're going to make. Currently in Ontario there are close to 300 private vocational schools. At least 100 of those are designated for student loan purposes. They employ more than 3,000 employees, with a total payroll of more than \$75 million, and enrol annually in this province 37,000 students. Over half of those are full-time students.

To characterize the schools, there are three main characteristics that are common to the schools: For the most part, they are single-purpose institutions that concentrate very much on placement of students; the second factor is the schools recognize that probably the greatest expense to students in terms of training is the loss of forgone income; a third is that these schools are very much consumer-driven, consumer-oriented in that the success of these institutions depends on satisfied clientele and consumers.

We've managed to gather some data recently on a profile of students who attend private career colleges. Some of the information has come to us from the Ministry of Colleges and Universities and some of the information we've gathered ourselves.

Through the Ministry of Colleges and Universities, we have established there are approximately 60 career programs being offered currently through career colleges. Broken down in very broad terms, we're looking at business programs being about 37%; trades and technology being roughly 28%; health care and community services, 20%; fashion and personal care at 13%, and hospitality and travel, 9%. That gives you a breakdown of the kinds of programs that are available. The Ministry of Colleges and Universities has determined that approximately 60% of the clientele, the students attending, are female at this particular time.

I mentioned that we'd gathered some of our own statistics. During the fall of last year, we did a student census. We surveyed over one third of the full-time students attending private career colleges in Ontario to look at specific characteristics.

We determined the age breakdown of people being served by the career colleges. Where approximately 80% of the students in the community colleges are under the age of 25, we found that only 55% of the students were under the age of 25, and whereas the community colleges were serving 5% of their students over the age of 35, ours was more in the neighbourhood of 20% of the students



being over the age of 35, so a little broader range of people being served.

The status of the people attending: We determined that the largest percentage, 37%, were people who were single and dependent. We determined that the number of people who were single and independent was 21%. Twenty-eight per cent of our students were married, about 11% of our students were sole-support parents and we determined 18% of the students had dependants of their own.

We took a look at topics like whether they were international students. We determined that 5% of our clientele are visa students; 5% of the people who responded described themselves as being disabled students; 24% of the students we're serving were not born in Canada, they're first generation here.

We took a look also at past educational history and, when we looked at high school performance, we determined that 50% of the students had achieved a general level of education in high school, which would then entitle them or make them eligible to enrol in community college. We found that 40% of our students had taken advanced courses in high school and therefore would be eligible to move on to university courses and only 10% of the students has studied at a basic level at high school.

When we looked at past history in terms of universities and community colleges, in the sample we took there were about 16% of students who had attended university at some point in their previous careers. In fact, 10% of those had actually completed university. We found 24% of our students had attended community college in the past and at this point 15% identified themselves as people who had completed community college. We see there is a continuum there. Although students are being served at the university or community college level, there is also a certain percentage who go on to an alternative method of education.

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In work history, we determined that 50% of our students had a full-time job before enrolling in the schools and that 50% of those people had at some point been laid off and had collected unemployment insurance benefits.

Finally, we took a look at why students chose career colleges. Again, taking a look at the loss of forgone income, the career colleges offer programs that are in length anywhere from six months up to 18 months. We found that 67% of our courses are six to 11 months in length and that 25% of our courses are 12 months and longer. So the number one reason for students was that they were looking for quality education that would allow them to get back out into the workforce really quickly.

The reputation of the school was important, the small class size was important to the students and the quality and the emphasis on placement was very important in career colleges.

It's from this kind of background, with the types of students we're dealing with, that Hartley is going to respond in terms of our recommendations for student loans.

**Mr Nichol:** I wanted Paul, who was involved with the student census, to give that broad-brush overview because we are not a well-known industry and not a well-known

partner in the training sector, but we are a fundamental unit of the total educational resource of the province.

This government has made large efforts to establish partnerships and has indeed involved private trainers in the consultation with respect to OSAP, and other consultations with respect to the Ontario Training and Adjustment Board, our regulations and other matters that are important in the training community to both public and private trainers. We welcome and are pleased to have the opportunity to be here.

Private career schools in Ontario were made almost full partners with traditional higher-education institutions in the receipt of student aid in Ontario in 1978, although most private training institution students had access to Canada student loans from the beginning of that program about 26 years ago. Governments recognized that a student is a student is a student. Today's student who is attending a private career school is considered to be almost on an equal footing with college students with respect to access to the loans program in this province.

This government, like previous governments, shows leadership in recognizing the importance of choice, and choice is the number one concern of the private trainer and of course the students who would choose his educational services. Private career colleges provide choice in this province. They do not compete with as much as complement the college system in the province. We are a fundamental unit of the total resource, and Paul has given that broad-brush of our industry and our clients.

But with respect to the current OSAP program that exists, this gives more of a bird's-eye view of the client base that is served by private career colleges. Of university students receiving OSAP funding, 60% are dependent and single individuals. At community colleges, 58% of the people receiving funding through OSAP are single, dependent people. At private career colleges in Ontario it drops to 32%, or less than half. Independent, single students at universities comprise 32% of OSAP recipients, at the colleges it's 23% and at private career colleges it's 34%. The bottom line on those dependent or independent single people is that in fact 92% of university recipients of OSAP are single and 81% of students attending college programs are single. At private career colleges, only 66% are single.

Our client base is different in that when we look at married and sole-support people, we find that 13% of students attending private colleges and receiving OSAP are married; 21% of the OSAP recipients at private career colleges today in Ontario are sole-support parents. That compares to 12% of the students attending community colleges, and 3% of the students attending universities, who are receiving OSAP assistance.

The mission statement for the Canada student loan and OSAP is to provide financial assistance to enhance access to post-secondary education. It's a program that's more than 26 years old in Canada. Through CSL, it has done well to date. Indeed, we believe it to be the most effective program in encouraging young people and giving them access to further education.

In the private sector, we do not believe that free is the answer. We believe in fact that the government's hard look at enlarging and enhancing a loan program versus a bursary



program is timely and can work well. We believe access can be enhanced with an all-loans program, even loans with accrued interest from the start of a student's program. But, and there is a large "but," this will be true only if (a) a much larger client group is served, (b) the amount of loan assistance is increased at least to replace the grant loss and (c) for all students, but especially students choosing private career colleges, that access to larger loan funds is increased.

I say that private clients, attending private colleges, have an almost equal footing. That is true in that they have access to the loans and grants programs that exist in this province. But I emphasize the word "almost" because the tuition differences in a totally unsubsidized private career school are not taken into consideration, so the amounts of loans and grants to date that a student attending a private college can receive does not reflect the fact that the taxpayer does not support in any way the full tuition load, as the government does in a public institution.

We believe in the full-loans program with (a) the larger group being assured access, (b) the amount of loan assistance being increased and (c) enhancements being available for those students who are truly in need. The two enhancements that our community of private trainers believes are most important are (a) a partial loan forgiveness geared to income and Revenue Canada and (b) an extended loan repayment, again geared to income and Revenue Canada.

We have the sole-support parents who graduate as dental chairside assistants who, with the starting salaries in Ontario at \$18,000 to \$21,000 a year, are hardly able to repay the loan funds that the graduate lawyer starting at \$25,000 or even \$35,000 a year is able to repay. That kind of a person, we believe, deserves a partial loan forgiveness, geared to her or his income at graduation.

I have emphasized so far that we are a sector where the sole-support parent versus the WASP is likely to attend. Again I would emphasize that an extended loan repayment geared to income and a partial loan forgiveness are enhancements that would be, we feel, very important with an all-loans program. From a personal standpoint, I believe the general loan limits should be between two thirds and 100% of a person's first year's salary, because debt load would obviously be a concern.

We believe opening up to loans would lessen the need for a front-end needs analysis or needs assessment, and shift the needs assessment to the completion of a person's program. Even now, we all know of the anecdotal evidence and screwups of the person who is attending a school on full OSAP funding and driving a Corvette. We also know of the appeal cases of the student who has not been given assistance, but the day he starts classes both mom and dad have been laid off from their jobs.

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Outside of funding for students attending private career schools, we believe this government should look at a parental loan program. There are middle-class and lower-middle-class people who have not, as many of us in this room have not, saved their children's allowance cheques as we might have intelligently done to send our 18-, 19- and 20-year-olds off to school. A parental loan program, again

tied to Revenue Canada, is something we believe this government should look at. It would be a loan program that would not be as difficult as having to produce the collateral that must produce at a local bank, and a parental loan program could further increase access for many students whose parents are most willing to give them assistance.

I finish by emphasizing again that the private career colleges are interested, number one, in choice for clients choosing post-secondary education and, second, in access. We must remember that a student is a student is a student. He or she must be treated the same whether choosing public or private training.

We require partnerships and partnering in the training and education in Ontario. We need to mobilize to address our training crisis in this new global economy. With the taxpayer in mind, we can still more fully utilize our education resources in this province and we can improve access with OSAP financial assistance to Ontario citizens seeking post-secondary education and training.

**The Acting Chair:** Thank you. We appreciated your comments. I'm at the committee's direction. I have a minute and a half. We can get one small question in from one party, I assume.

**Mrs Yvonne O'Neill (Ottawa-Rideau):** You were suggesting that access to the loan funds does not take into consideration the length of program that your colleges provide and/or the higher tuition fee because of non-subsidized education.

First of all, I'd like to ask you how you feel. Are you being heard? You said in the beginning of your statement, I think, that you have been involved in consultations both on the Ontario Training and Adjustment Board and on the OSAP, and I'm wondering how you feel that concern you're bringing is being accepted.

Also, I don't think you said anything about the need for a changed repayment plan that perhaps would flow from some of the comments you made. Would you like to say a little bit more about that? From your remarks, I certainly think that's a real need of many individuals.

**Mr Nichol:** I could speak about my own school, because it's an apples-to-apples program that's offered. In some of the better colleges than my own we would offer a 1,600-hour technician-level program in one year, one calendar year, versus two academic years at a public institution. We would offer a technologist level, and these are fully accredited programs, in a year and a half versus three years.

Our students are funded on a single academic year versus two, and they're funded on a year-and-a-half academic year versus three. It is apples to apples in terms of the number of hours and certainly in terms of accreditation and, consequently, the debt load that my students would carry is substantial because of the full tuition amount that they would pay. There's no question that some would not have access.

Many programs in private career schools very often deliver the same number of hours. The duration of the program is always shorter because full summers are utilized. And, yes, there is reduced access because of that factor.

**The Acting Chair:** Thank you.

**Mr Nichol:** And I have forgotten your second question.

**The Acting Chair:** There isn't time to pursue it. The tyranny of the clock strikes again. Thank you very much for coming today.

#### QUEEN'S UNIVERSITY

**The Acting Chair:** The next presentation will be from Rod Fraser, vice-principal, resources, Queen's University. I believe Mr Fraser has Mr Andy Parnaby with him. If you would like to introduce yourselves for the purposes of our Hansard, you've been allocated 20 minutes by the committee to make your presentation.

**Dr Rod Fraser:** Thank you very much. May I introduce Andy Parnaby, who is the academic affairs commissioner of the newly elected alma mater students society at Queen's University, and I am Rod Fraser, doing a tour of duty as a vice-principal of resources.

I would like to just briefly introduce the subject and a little history of it and then Andy will speak to the partnership funding proposal, of which I believe you have just had a copy delivered to you. Let me say that we are very happy to have been able to make this presentation to you. We realize that it's a very hot room and that some of you have suffered through, I guess, a fair bit of time.

A Blueprint for Action was an attempt, back in 1988-89, to develop a proposal that united students, university administrators and private sector persons, as well as government, for the refinancing of universities. It had a series of principles associated with it. One of them was partnership, the second that there should be a concern for accessibility and the third that there should be accountability of university administrators to the students and government.

In 1989 at the Ontario Federation of Students convention the Blueprint for Action was hotly debated and was not supported by the majority of the undergraduate students there. There was a second motion put, however, and that motion was, "Deep-six the blueprint; don't take our time talking about partnership funding proposals any more." The vote on that was, in the majority: "No, don't deep-six it; work on it. As students we're concerned with the quality of our learning environment and we want to be part of the development of a proposal."

From the blueprint's start, then, we have gone through a couple of further iterations, including a multi-year plan which added to those basic principles of partnership, concern for accessibility and accountability a concern for government's current fiscal reality and suggested that there could be a tilt in government's contribution: little in today's world, more in tomorrow's.

This last year, however, has been one where, rather than people like myself being principal drafters and workers-up of the ideas, we have had a group of students from nine universities—Toronto, Waterloo, Western, McMaster and Queen's on the one hand; Brock, Ryerson, Laurentian and Wilfrid Laurier on the other hand—and over the course of the last 12 months they have put together their version of a partnership funding proposal. That is what you've had distributed to you. I might ask Andy if he would speak to it and then perhaps after that we'd be pleased to answer any questions you might have.

**Mr Andy Parnaby:** You have an executive summary. It outlines the salient points of the fuller proposal. I'll address each section in turn, beginning with accountability, proceeding to accessibility and, finally, sources of funding. I'll hit them one after the other and then I'll conclude. Then Dr Fraser and I will be glad to take some questions on the partnership funding proposal.

This proposal aims to address the continued deterioration of the quality of, and accessibility to, the Ontario university system. These two issues, together with improved accountability, constitute the central elements of the partnership funding proposal. The foundation is a partnership funding solution between government, students and the private sector.

**Accountability:** If the public is expected to maintain its contribution to the post-secondary system it is clear that a method of gauging the return on its investment is necessary. In this respect, internal and external accountability are fundamental to our proposal. As addressed by the Smith report, since members of the public at large are the university consumers, it is absolutely crucial that they be kept informed. Therefore we recommend the following:

1. The creation of mechanisms, outlined in full in the proposal that you have, to convey clear mission statements, spending priorities and measurable objectives, such as the progress of students and the quality of education received;
2. Support for the creation of community outreach or access programs like those in Manitoba and Alberta. Such programs would challenge the popular perception that universities are elitist institutions by providing information and targeting traditionally underrepresented groups. These recommendations would reinforce the substantial benefits available to all through investment and participation in the post-secondary education system.

#### 1720

**Accessibility:** Our recommendations in this area are based on four fundamental premises: (1) a desperate need for a long-term funding solution for post-secondary schools; (2) an understanding of the present financial realities constraining all levels of government, the private sector and students themselves; (3) the quality of education and accessibility are not mutually exclusive notions, and (4) a partnership-type philosophy.

In this respect we recommend the following:

1. The implementation of an income contingency loan repayment plan financed by government, the private sector and students. This is the core of the partnership funding solution.
2. The creation of a task force by the Ministry of Colleges and Universities to study its implementation. Such a study would address such issues as its impact on the current Ontario student assistance programs.
3. Recognizing that the major barriers to post-secondary education have their impact long before the ton of applications to university, in tandem with the income contingency loan repayment plan we also recommend the following: the creation of special accessibility programs, again using Alberta and Manitoba models as a guide, and the creation of an integrated student support network to



ensure equality of access and equality of success of students in post-secondary education.

We feel it is crucial that parents and students at all levels be exposed as early as possible to all elements of post-secondary education, with special emphasis on long-term financial planning.

Finally, section 3, the last section in the partnership funding proposal: Funding will be provided by the public sector, post-secondary education students and the private sector.

The responsibilities of the public sector: (1) first and foremost, a commitment to the implementation of the income contingency loan repayment plan; (2) increased government transfers above the current level of 1%, combined with an additional capital allocation for deferred maintenance projects and library acquisitions.

Post-secondary education students: Their responsibility will be fulfilled through an injection of \$200 million over five years. This injection would be achieved through an increase in tuition fees to a level that would cover approximately 25% of the total cost it takes to educate one student. Such an injection would utilize differential fees to recognize the different costs associated with various academic programs. Finally, the initiation of a Ministry of Colleges and Universities task force to study the implementation of this plan.

At this juncture, I'd like to stress that this is, in its most basic philosophy, a partnership funding proposal. Therefore we feel no tuition increase will be acceptable without the implementation of the income contingency plan. As a basic philosophy, contributions of one partner are contingent upon the contributions of the other two.

Finally, the private sector: (1) that the private sector affirm its commitment to the income contingency plan, and (2) the initiation of an MCU task force to study the contribution of the private sector and methods to increase such investment in the post-secondary school system.

Those are the three main sections of the partnership funding proposal, and this has been just a brief précis. The nuances are fleshed out more fully in the proposal you all have.

I'd like to conclude by saying that this proposal, if distilled, could come down to perhaps three or four fundamental tenets, and they might be the following:

The benefits of a university education flow to both the individual and society. Therefore it is reasonable to expect funding from the government and students, combined with a substantial investment from the private sector.

The removal of tuition fees as a financial barrier is facilitated through the implementation of the income contingency scheme. Broader representation will be created through outreach-like programs.

This proposal is intended to represent the starting point in the process of implementing a long-term funding solution and as such is open to amendment and obviously debate.

The year-end transition conference held just recently at Ryerson—Terri Lohnes is my predecessor as academic affairs commissioner at Queen's University—held several workshops about the underinvestment crisis. Eleven universities have expressed their support for the partnership

funding proposal and they include Queen's, Waterloo, Western, Wilfrid Laurier, Laurentian, Brock, the University of Toronto, Ryerson, Carleton, Windsor and McMaster. All the executives-elect expressed support for the plan and gave their commitment to take it back to their schools for further discussion.

To conclude, I'd just like to say that this is an integrated long-term plan which demonstrates our willingness as students to bear our fair share of the cost it takes to educate us. It also represents our deep concerns about the deteriorating quality of education we are receiving.

That's all I have to say about the partnership funding proposal. Dr Fraser and I will be more than willing to take questions.

**The Acting Chair:** I'm sure we have some questions to be asked.

**Mrs Irene Mathyssen (Middlesex):** I want some clarification. I believe you said there would be a shared increase. Do you address the question about whether tuition fees should be regulated? Would you favour the continued regulation of tuition fees or should they be deregulated in your plan?

**Mr Parnaby:** I think the fundamental philosophy of this proposal, while it does not address specifically the issue of regulation versus deregulation, is a regulated tuition fee increase of \$125 to reach that 25% plateau. While we don't address it specifically, I think the implicit philosophy is a continued regulation of tuition fees, but a regulated increase, to facilitate the \$200-million injection we think students are capable of contributing.

**Dr Fraser:** Could I add to that? From the very start the blueprint has been a proposal for a publicly supported system of universities in Ontario, so as Andy has said, there would indeed be some maximum fee. I think the proposal would be, though, that if the community that exists at a given university didn't want to charge the full maximum, there would be the freedom to charge less, as there currently is; so a maximum fee but with the freedom to charge less if that seemed appropriate.

**Mr Martin:** A couple of questions. First, to explore briefly the philosophical underpinnings of your argument, is it your perception that a university should be funded by the government to be accessible and thereby accessible to everybody or that individuals should be asked to contribute ever-increasing amounts of money to continue the education system?

I guess, flowing from that, while we might have a government in this day and age that is sensitive to the issue of people in poverty, the inability of people to pay and the question of the fear of debt load in people's minds, another government in another day might in fact take advantage of this system to simply increase tuition fees till they're out in orbit, and then nobody can access the system. Could you comment on that line of thinking?

**Dr Fraser:** Could I take a first shot at it? A fundamental objective with the blueprint and with every other proposal was that we would at least preserve the access that currently exists in Ontario and, if we could, enhance it. A fundamental tenet has always been that of the additional



tuition fee revenues gathered, some 30% or more would be encumbered to help out those students who couldn't pay the increased tuition fee level and hopefully some left over to help those who couldn't even pay the tuition fee level before you increased it.

**Mr Martin:** By way of grant?

**Dr Fraser:** By way of grant and/or loan. I know you're dealing with that issue: Should it all be grant or should it all be loan? In the initial blueprint, and I think to this date, there has been the sense that there should be a pluralistic system for the funding of students. The income contingent loan repayment scheme is clearly an important component of that, but having a grant system, especially one that has the potential for targeted grants to specially designated groups, probably gives you much more leverage in providing access.

This has all been done in the framework of knowing that just under 70% of all of a given age group stream out of high schools and are not eligible to enter universities. We've been thinking principally about the 30% or so who are eligible for universities or colleges, the vast majority of whom go to either a university or a college. Then we've also been thinking about the outreach programs for those who stream out. Actually, that's one of the major improvements in the partnership funding proposal the students have put together. They have seen student groups in Manitoba and Alberta that have volunteer effort by students who are allocated to talk to junior high and high school students who seem like they're about to stream out of high school, and have encouraged them to stick with their high school in order to have the chance to decide to go to university or not.

1730

**Mrs O'Neill:** As you likely know, I've heard your presentation before; I think that was about two years ago.

Andy stated that there were several universities—at least their executive-elect, as you call them, had made some commitment to the plan. I'd like an update on the post-secondary institutions you mentioned. I also wonder if you have new commitments from the private sector that you could tell us about. I know those two components are very important. I know this plan is very closely tied to Queen's. I have another question, but I'd like you to give me a brief response on that, if you could.

**Mr Parnaby:** Okay. First I'll address the issue of the executive-elects and their support. At the transition conference it was a workshop, and we had a chance to discuss with the executives afterwards. Most of the new people who came on board said, "Yes, we support the philosophy of income contingent programs and a partnership funding solution, but we do have problems with X, Y and Z"—certain sections of the proposal they were hedging on. At that point they said they would have support, such that on June 4,

5 and 6 the University of Toronto is convening a conference of I guess the original nine plus two that we managed to meet at the conference, to discuss it more fully. These are schools that have come forth and said, "Based on the options presented to us, this is the one we think we want to go with but let's sit down, get down to brass tacks and bang this out and see where we want to go."

As far as the private sector is concerned, I'll be quite honest. I'm not entirely sure how much private sector support there is, but I do know that beforehand my predecessor had addressed the Queen's board of trustees to quite a favourable response. If that's any kind of indicator, I'm sure Dr Fraser could comment more on the private sector support, that there is willingness out there to do so.

**Dr Fraser:** Just briefly on that, the chairs of boards did vote unanimously in support of these basic principles that have actually been in the blueprint, in the multi-year plan, and now in the partnership funding proposal. The chair of the chair of boards sent the same material that you have to all the chairs of boards of governors or trustees about three weeks ago, asking them to consider it and to see whether they support this new proposal. There's just not enough time to hear back from that but, as Andy said, a testing of that with our board of trustees would suggest that as it was in favour of the principles before, so it would be now.

I think the Blueprint for Action was clearly identified with Queen's, because the students and myself and Ken Snowdon at Queen's worked so hard to put that together and then to try to share it and get people to buy into it. In this partnership funding proposal, I think it's fair to say there are three or four students who have been principal drivers of it. Andy mentioned Terri Lohnes, who was his predecessor. There was a student from Waterloo who was a key drafter. There were people at Brock who were key participants in this, as well as somebody at Ryerson. They were kind of a key group. Whereas it started as you say, I think it began to spread as early as June 1989, but now it has really become a more university system-wide proposal.

**Mrs O'Neill:** I just wonder, Andy—

**The Acting Chair:** Thank you, Mrs O'Neill, and thank you, gentlemen, for coming today. The tyranny of the clock strikes again.

I would note that several of our members have had to go upstairs to participate in the debate; it's unusual for one particular committee to have that much participation in the House at this time. Thank you very much for coming. We appreciate all the presentations that were made to us today.

The committee is adjourned. The committee will meet at the call of the Chair.

The committee adjourned at 1735.



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social development**

**Student assistance**

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**Aide financière pour les étudiants**

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Clerk: Lynn Mellor

Président : Charles Beer  
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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 2 June 1992

The committee met at 1535 in room 151.

### STUDENT ASSISTANCE

Consideration of the designated matter pursuant to standing order 123, relating to student assistance.

### MINISTRY OF COLLEGES AND UNIVERSITIES

**The Chair (Mr Charles Beer):** If I can call our meeting to order, this is a meeting of the standing committee on social development. We are dealing with standing order 123 relating to OSAP. At this time, I'd like to ask Dr Bernard Shapiro, the Deputy Minister of Colleges and Universities, if he would come forward. We're going to deal with his response.

**Mr Hans Daigeler (Nepean):** Before Dr Shapiro begins his presentation, do you have any indication as to whether the minister will still be coming still in the half-hour that remains, as I had made a request at the beginning of the hearings?

**The Chair:** The minister is not able to be with us, his office has told us.

Dr Shapiro, we have scheduled 30 minutes. The way in which the time for these hearings has worked out, we have a little additional time. If there are some questions that take us beyond 30 minutes for a little bit, if you're agreeable, perhaps you could stay and we could just flesh out a few other questions, if in fact that arises. Very good. Would you begin your remarks, please.

**Dr Bernard Shapiro:** Perhaps I could begin by saying that what I'm planning to talk about this afternoon is not really so much a response as it is a set of what you might call closing remarks. I've kept up with the transcripts of all the meetings the committee has had. I've read and reviewed them all and I don't feel the need to respond to the issues in particular, but I do want to talk about a few things that I think would be of interest to the committee. I would be glad of course to answer questions on any issue at all once I'm through.

I think that it has in fact been very helpful for us to follow the hearings and the various statements that were made. Most of the people who appeared in front of the committee are representative of the constituencies that are also on our advisory committee, so we've been hearing from them in that capacity as well. Nevertheless I do look forward to receiving the report of the committee because I think it will be very helpful in helping us to try to formulate how we want to go forward with OSAP. One is always committed in principle to having the best possible program, which never seems to mean you do exactly what you want but does seem to mean you try to get as far as you can with the resources being made available.

There were many issues raised by the committee members. I'd like to summarize my own comments in three

different areas. One has to do with meeting students' financial requirements, one has to do with managing the debt load of graduates and, finally, other issues related to the administration of OSAP. Although I've chosen to focus on these particular areas, I'd be glad to answer questions on these and any other area in which you have a particular interest.

Before I go to the three issues, and specifically the first one on meeting the financial needs, I'd like to give you some sense of the overall scope of OSAP in terms of the finances, just to keep it in mind for us. The total amount of assistance provided by the province in 1991-92 consisted of two main parts. There is first of all the Canada student loan program, \$345 million which we accessed. Then there was the Ontario part of the program, \$235 million in study grants and \$88 million in loans. That's the main feature of the financial part of the program.

Based on our examination of the total assessed allowable costs last year, of the \$668 million expended in student assistance funding, \$214 million, or 32%, was spent on tuition and compulsory fees; \$194 million, or 14%, was spent on books and equipment; \$287 million, or 43%, was spent on personal and living allowances, and then there was \$73 million, or 11%, that was spent on all other costs, a variety of different miscellaneous costs, either for special needs or other kinds of special purposes. You can see that the assistance itself is not simply a matter of what you might call the direct educational costs, it's not simply a matter of what tuition and books might cost, but also a matter of living allowances and other kinds of costs associated with being a student, especially if you're not living at home.

When OSAP was established in the 1960s the primary focus was, I think a number of people have noted, on young, unmarried, childless students, mainly immediate high school graduates. Therefore, financial needs were at least relatively easy to find for a group that was that homogeneous. Over the past two decades, however, the diversity of student circumstances and needs has grown and the profile of a typical student has changed. The present student body is composed, at least to a greater extent than before, of mature students, part-time students, single parents, native students, disabled persons, refugees and new immigrants.

To illustrate the point, our statistics for 1991-92 tell us that 30% of our recipients are over the age of 24, 60% are women, about 8% of all recipients are sole-support parents and, still a very small number, only 1.2% of recipients are part-time students. It is this sort of increased diversity in that student group which results in significantly different financial needs which are in many cases not being met by the current program and were the initial impetus for launching the review at the beginning of last year.

As a result of the consultations with our general advisory committee and other stakeholder groups, it has been identified that the program could more adequately support



some students, especially students with dependants and mature students, and finally graduate students. Those are the three categories least well treated, at least in the current program arrangements.

As I mentioned in my opening remarks, in order to provide students with greater access and assistance to post-secondary education the ministry is currently exploring several options, some of which include alternative loan programs, gearing payment to income and accessing the federal assistance program differently.

As you've heard previously, every dollar of additional grant assistance costs a dollar, while a dollar in loan assistance costs approximately 40 cents. It is evident that a larger amount of assistance could be provided to students through loans; however, as mentioned previously, and this will get me to my second topic, debt load management and the perception of potential debt by low-income students are important issues which have to be addressed as part of our review.

Let me return for a moment to the debt load management issue. As you have already heard in the detailed presentations from witnesses, there are a variety of opinions regarding loans and repayment models. What's important for the committee to keep in mind is that with the Canada student loan program, which is over half the total program, we as a province do not have the flexibility to change the process or the repayment structure. It should be noted, as I say, that the Canada student loan program is just a bit over 50% of the total program.

That doesn't mean, I should add, that we can never convince the Canada student loan to make a change; it's just that we can't get the change by announcing it. We would have to negotiate it. We have in fact been negotiating various kinds of possibilities with the Canada student loan program, none of which have produced results thus far, but I don't think that's a reason it can't be done.

So, for example, if we think in terms of the income-contingent loan repayment plan a number of people have mentioned, the cooperation of the federal government is crucial on two grounds relative to that. One is to act as the collector, that is, just to act as a collecting agency through the income tax system. It would be horribly expensive for the province to do that on its own and relatively straightforward for the federal government to do it, should it agree to undertake it.

However, the second thing would be even more important: Would they agree to redefine the Canada student loan program so as to be consistent with our preferences, so that we could then access the entire thing as a sort of conceptual package rather than a bunch of little packages, which is both very hard to explain to students and hard to manage when you're starting to plan for the future and imagine what it's going to be like when you're a graduate.

The Canada student loans system has a traditional repayment structure made up of fixed payments at specified dates and periods. At the present time there are a number of policy changes being considered by the Canada student loans for 1993-94, and their policy direction will form an important basis to work from in determining the type of provincial

programs that best supplement federal directions in a manner appropriate to provincial accessibility concerns.

It's a double kind of negotiation. They are interested in some changes as yet unspecified and not terribly clear; we're interested in considering changes, and so the negotiations will go on to try and find a coherent package. It bears some relationship, for those of you who are at all familiar with the recent negotiations over the Canada-Ontario agreement on training, where one of the priorities of the government was to try and get a single system of local committees, a single system for provincial training, rather than a duplicate system or parallel systems of a federal system and a provincial system leaving the consumer to always worry about which one to access when and how to make them work together. I don't know if we'll be successful but we'll certainly make the effort.

Throughout the process, we are of course cognizant of the fact that the amount of debt a student will be responsible for managing should not deter an individual from entering post-secondary studies. Here it really is a bit of a psychological conundrum in a sense; that is, the debt loads for the average Ontario student at the moment are not among the highest in Canada and not among the lowest either. We're sort of in the middle, roughly speaking.

What is the case is that the psychological perception of debt varies with what it is you owe over. For example, students find it very difficult, for reasons I think we need to be respectful of, to think of owing, let's say, \$10,000 or \$12,000 for their education. They don't have the same difficulty over owing the same amount relative to a car. It's a different psychology. It has to do with the society we're in and how people value different things and how they see the choices that are available to them. We just have to learn how to deal with that and perhaps how to shape it to some extent as we move along.

However, the point we have to keep in mind is that we don't want people not to come to colleges and universities because they think it's impossible. Our sense of it is—we've begun to do some work on that this year—that in order to make that a likely event, in order to make it likely that people not currently considering post-secondary education as an option would at least consider it, we really have to work very much earlier. We have to be working with parents and students when they're in grade 9, grade 8, grade 7, grade 10, and not in grade 12; that's far too late. In most cases, the choices have already been made.

Let me finally address the comments expressed regarding the administration of the Ontario student assistance program. These comments are mainly related to the processing of assistance applications, timing as to student payments and general perceptions of the inefficiencies within the current structure. As most of you are probably aware, we are currently experiencing a significant increase in the volume of student assistance applications compared to 1990-91; \$50 million in additional assistance was provided in 1991-92 as a result of a 25% increase in applications. We think we may face the same situation again this year; it's very hard to tell. What we know is, we're having many more applications earlier. That doesn't mean there will be more in the end. It's hard to know whether students are

just applying early or whether there are going to be more. We'll have to wait and see.

The funds available to administer OSAP represent only 1.5% of the total combined federal and provincial assistance. It's a fairly efficiently administered program from that point of view. I feel, however, often like I think the Chinese authorities must feel; that is, the more they struggle to increase the productivity of the economy, the more the productivity seems to be eaten up by an increase in the birth rate. So although continuous improvements get made, they don't result in a higher standard of living because there are just more people to deal with.

To some extent this has probably been happening in OSAP. On a sort of absolute scale, we've accomplished what I consider to be miracles of efficiency in using the new technology to decrease the turnaround time and have more efficient responses etc. But of course the horror stories keep emerging because we haven't been able to apply sufficient new resources to cope with the increase in the number of applications. If we were having the same number of applications we had two years ago, the turnaround time would be less than a quarter of what it was two years ago simply because we've installed new systems to deal with it. But we haven't been able to do that and we've just got to keep at it, hoping that at some time our resources will catch up with the number of people making applications.

It is of course our intention that the new OSAP will be less complicated, if at all possible, and will therefore result in better response time for the applicants, because that's part of the problem. The more complex a program becomes, the harder it is to apply for and the more likely it is you'll make an error in applying for it or not fill out the application form correctly. We found, for example, by simply redesigning the application form, which is something we did for the last round, we reduced by about half the number of applications that had to be processed just by making it simpler to understand what it was we were doing.

We hope to also improve communications with our delivery partners and clients. So, for example, as we develop the new systems in Thunder Bay, it's going to be possible for the person who answers the phone, no matter who that is, to call up the file on screen in front of him so he can deal with all aspects of the student's questions and not simply, "We'll deal with this one and I'll transfer you to so-and-so who will deal with that one." We hope that will at least make for some improvement.

Naturally, actual changes to the overall administration have been deferred until the policy review is complete and the precise nature of a new program is determined; that is, we're not going to change the overall system until we know what the new program is going to be like. We'll try to have a system that makes sense relative to that program.

Finally, I would just like to express my appreciation to the committee members for the opportunity to address you on the matter. I'm certainly prepared to answer any questions you raise, at least to the best of my ability.

1550

**The Chair:** Thank you very much, Dr Shapiro. We have some time. I think we'll begin with Mrs Cunningham.

**Mrs Dianne Cunningham (London North):** Thank you for your concise report today. I have a couple of questions. I totally missed the last points you were making with regard to policy review. I wonder if you'd expand upon that.

**Dr Shapiro:** In the last one I was talking about the administration of the OSAP program. The problem we're always having—it sometimes unfortunately reminds me of the complaints I sometimes hear about workers' compensation—is that there are always a lot of complaints about what the response time was, how we dealt with appeals, whether or not we'd sent the cheques out on time and things of that sort.

We have been trying in a variety of ways to use the new technology that's been made available to us in Thunder Bay to improve the efficiency with which the program is administered. I think we have been successful. As I was saying earlier, I sometimes despair because, although we're more efficient in a sense, we haven't been able to keep up with the huge increase in applications. Although we've had improvements in the turnaround time etc and the decrease in appeals and stuff like that, they haven't been nearly to the extent we would like. So that's one issue.

The second part of the issue is that once we decide what the program is going to be like, there may be new opportunities for figuring out how it's to be administered. But we can't decide that until we know what the parameters of the program are going to look like. To take a relatively radical example, one that might not be one we actually consider in the end, one could imagine the entire program being administered by the financial aid officers in the institutions. As long as we have the appropriate parameters in place and we have the appropriate portability arrangements so students would be able to move from institution to institution, that's one possibility. We will certainly consider it once we know what the total program is going to look like and what that would involve.

On the other hand, if we don't do that and if we continue with the office in Thunder Bay, we will be asking ourselves: Is there a more efficient way to run this program? It isn't simply a question of how to run it more quickly; it's how to run it better, that it's housed so that the response time gets lower and lower so the cheques get delivered on time. It's those kinds of things, so that the service to the clients, in this case the students, is really first-rate, and that when it collapses, as it will do with that number of students from time to time, the students feel it's easy to access somebody who can help them with this.

Those are the kinds of policy considerations we're concerned with. I've been hesitant to think clearly about them until I know what the parameters of the program are going to be, because we want to design it for the program, not the other way around.

**Mrs Cunningham:** My assumption is that you probably already have some ideas with regard to the federal program, the Canada student loan program, where the changes could be made.

**Dr Shapiro:** Yes.

**Mrs Cunningham:** I'm very familiar with the negotiations that have been going on around the Ontario Training



and Adjustment Board. I have some observations I'd be prepared to share with you. I'd happily share them with the committee, but they'd just take too long. I'm sure you must have some specific things you would like to see changed. If you do, I think it would be important for the committee to see them.

**Dr Shapiro:** My view is a little different, but I will tell you what it is. In my ideas about the Canada student loans program I have a first preference, a second preference and a fallback position. My first preference is that we should administer the program and spend it in any way we think appropriate for student assistance. All I want from the federal government is the \$365 million, and I'd then like to design it as one coherent program for the whole system. It's very much like the Quebec—it's the opt-out option. We tried to move forward on that option earlier this year because the legislation governing Canada student loans provides any province with the option to opt out in the administrative part of the program.

When the federal government heard, simply because we told it, that we were thinking about moving towards the opt-out procedure, it decided to change its rules; it felt that if we opted out and Quebec opted out—and the Northwest Territories have already opted out—then there'd be no national program left. They weren't willing for us to do that till they've had a chance to rethink their whole program, so it was not possible for us to do that. That was our first preference.

My second preference is to try to work out a complementary program with the federal government so as to make sure the two programs fit well. For example, one of the dangers under the current definition of the Canada student loan program is that if we go to, say, income-contingent repayments for tuition fees, that will disable us from accessing as much of the Canada student loan money as we have now, because it's defined for tuition. So we don't want to do that. That would be an example of contradictory programs and would just disable the province from accessing as much student assistance money as we now have. I want not to fall into that category. That's my second objective. If we can't have the money to operate as a single consolidated program, at least therefore we've got to negotiate some way to have a complementary program so we don't cancel each other's objectives out.

The fallback position is always a fallback position in the federal system, and that is, you wait for the Canada student loan program to say what it's going to do and then you do something that complements it, but that's a very dangerous situation to be in because you're always waiting for what's going to happen in the next throne speech and having to turn yourself upside down in order to access the funds that are now made available under a different set of rules. So I'm very much hoping to have one of the first two options.

**Mrs Cunningham:** Maybe the committee's report will be helpful.

**Dr Shapiro:** I hope so, and I look forward to it. I meant that when I said it.

**Mrs Elizabeth Witmer (Waterloo North):** I do appreciate the response you've provided, Dr Shapiro. We talked about debt load. Would you just review with me, once a student has completed his or her education, what type of arrangements are made and what role the provincial government plays?

**Dr Shapiro:** The student loan program is a question of a negotiation between the student and the bank, not between the student and the government. The loan is negotiated with the bank in the first instance, whether it's a Canada student loan or the Ontario student loan, and you work out with the bank the appropriate repayment arrangements. It's usually done about six months afterward. The whole debt is consolidated, the interest is no longer subsidized, because we've been paying the interest up until then, and then a specific payment plan is worked out. It can be different for different students. Generally it doesn't run to more than 10 years. The student and bank can sign anything they want, but it generally doesn't run more than that.

The role of the provincial government is simply, for our part of the loan, to guarantee it if the student doesn't repay the Ontario student loan portion. The federal government guarantees if the student doesn't repay the Canada student loan portion. That's the current arrangement.

**Mrs Witmer:** I guess one of the things that's happened to me personally this year is that, for the first time ever, I have had students who feel hassled by debt collectors and who have left university, obviously can't find jobs and are unable to make the payments, and that's creating considerable emotional and financial hardship. There always is the perception that somehow the province needs to do something differently, but as you've just explained, it's not its responsibility once students complete their education.

**Dr Shapiro:** There are some opportunities for people who find themselves in difficulty to ask for some further relief from the program. There are some opportunities—not many, but there are some. I think if they're being hassled by debt collectors that early in the game, it's certainly not the provincial government doing that, because they would still be dealing with the bank.

**Mrs Witmer:** Exactly.

**Dr Shapiro:** I should say, however, that if the student isn't paying the bank and we end up reimbursing the bank, we do turn to collection agencies to collect from that student if at all possible. If it's not possible, we just write the debt off, but you could be hassled by someone on our behalf, but not that soon after; it would be years afterwards. It wouldn't be immediately, because you'd still be dealing with the bank.

**Mrs Witmer:** But there is that possibility.

**Dr Shapiro:** Yes. Oh, there is that possibility.

**Mrs Witmer:** I appreciate that clarification.

**Dr Shapiro:** That's one of the reasons, quite frankly—and I don't know whether it's a good thing or a bad thing—that our loan default rate is very much lower than that of the federal government, because we do collect the debt where we can.



**The Chair:** You told us that when you were first here. What is the—

**Dr Shapiro:** I don't remember, to be honest. I can find out for you. We do know what the comparison is. It's certainly less than 5% on the provincial side. I just don't remember the exact figure.

**The Chair:** I was going to say that 4% came to mind, but we'll check.

**Dr Shapiro:** I just don't remember.

**The Chair:** Okay.

**Mr Daigeler:** Don't misunderstand it, Dr Shapiro, as a slight to you, but I still think the minister should have at least shown the courtesy to appear before the committee at one point in time. I find it very hard that he did not find a moment to address some of the policy issues that really surround the questions that we discussed. But seeing that we have to "make do" with you—

**Dr Shapiro:** Consolation prize.

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**Mr Daigeler:** —I will ask some questions of you that touch somewhat on the minister's position. Let me ask, first of all, what is the process in your ministry? When your officials prepare papers, are they seen by the minister before they are sent to your various consultation committees?

**Dr Shapiro:** That would depend on the particular topic and at what stage these consultations were going on and the purpose of them. For example, sometimes when you're consulting with people to try to get their best ideas about something, one doesn't need an elaborate pre-preparation process and it would just be up to them to consult and then try to gather ideas together etc. But I think when we're getting, as we are in this case, closer to actually putting together a report for one or other of the cabinet committees and various policy consideration groups, we would almost certainly share with the minister the ideas we have that we want to consult about before we actually go out and do the consultation.

**Mr Daigeler:** Would you say that the question of the move to an income contingency repayment plan is a matter of significant policy importance and shift and you would definitely involve the minister in at least showing him and getting his tacit approval on what is being circulated as discussion material?

**Dr Shapiro:** That's right. That is, we wouldn't usually be asking the question, "Is this what you want to recommend?" We would tell the minister: "This is what we're intending to share. Is this a problem for you?" So we wouldn't be asking him to make the policy decision that far in advance.

In many cases, as well, when you're dealing with an advisory committee of this sort you are often sharing things that don't originate from the ministry but originate from some other source altogether. That is, when the committee gets together, the paper gets put on the table, some of which came from the ministry and some from whoever else is at the table. So the committee itself might end up considering a lot of things that have never been shared with anyone. It just emerges in the process.

**Mr Daigeler:** You're saying, though, that you would be sharing with the minister the documents just to see whether they would create any difficulties.

As you probably have guessed, I'm talking about a specific document I have in front of me and that I will be sharing with the committee. I'm surprised it wasn't shared before by yourself with the committee. This is a document that was in fact prepared by your officials. It's a March 9 memo by the assistant deputy minister putting forward pretty significant and firm proposals on how OSAP should be reformed and how interest should be charged and income contingency plans should be instituted.

I understand that in fact you—and I'm sure that will be of interest to my social democrat friend across the room—have received representation from the Ontario Federation of Labour which describes these proposals as horrific. "The latest proposals which you distributed are far more regressive than anything that has been considered in recent years.... This package is a frontal attack on equity and accessibility. We find it shameful." This is the director of education of the OFL.

You will understand that I'm trying to get a feel from the minister above all, but since you are here on behalf of the ministry, whether this submission by your assistant deputy minister reflects your view and the views of the minister. As I indicated, Mr Chairman, I will be tabling this package with you for distribution to all members of the committee.

**Dr Shapiro:** I think it would be quite safe for me to say, reflecting both my own view and that of the minister at the moment, that we are not anywhere near having decided which proposal or model is likely to be one that we're willing to recommend to our colleagues, either at the civil service level or at the political level.

What we've tried very hard to do is consider almost every imaginable model, and there are supporters for almost every imaginable model. We tried very hard to bring all of these things forward. We've responded to people who've suggested we have loan-only programs; we've responded to people who've suggested we have grant-only programs. We've done a lot of work on the income-contingent issue, because the Ontario universities had a lot of interest in it and we tried to help them do their modelling on that ground. We've talked about subsidized loans; we've talked about unsubsidized loans. These are all modular parts of an eventual program, and we just haven't, either the minister or myself, come to some conclusion about which, let's say, two or three options would make sense to discuss really seriously with our colleagues and pursue.

That's the task that's ahead of us in the next several weeks. I don't know when this committee's planning to have its report available, but it would be very helpful for us to have it as soon as possible, because then we would be able to take it into account in trying to figure out where we should find ground that would be common with that of the committee. But it is not the case that either the minister or myself has decided that this is the route we're pursuing. We haven't gotten anywhere close to that.

**Mr Daigeler:** I certainly appreciate that clarification. It makes me feel a little better and I think it makes at least some members of the public feel better, although I think the memo was really quite direct in the way it described the plans. Be that as it may, I take you at your word that you're looking at all options at this point and I appreciate that this particular memo is one of the options.

At the beginning of these hearings you told us that you had to cancel a meeting of the advisory committee—I forget the precise title—that is looking at—

**Dr Shapiro:** It's a general advisory committee, but I'm not sure myself.

**Mr Daigeler:** There are so many committees working here and there. In any case, we know that what we're talking about is the advisory committee on OSAP. Has the committee now met? Is it going to continue to meet? There seemed to be some hesitation when we met a few weeks ago.

**Dr Shapiro:** It has not met. It is going to continue to meet, but the reason it has not met has very much to do with the question you just asked, because we feel it would be inappropriate at this stage to begin to meet with the committee until the minister has made some choices about the kinds of directions, or at least the range of options, he's willing to consider. We want to bring those forward to the committee, and we'll do so, but not until he's made that choice. So we deliberately have not scheduled a meeting with the committee. My hope is that it will meet well before the end of this month, but we'll have to wait that out and see.

**Mr Daigeler:** Do you think we should push the minister a bit to make up his mind?

**Dr Shapiro:** I think that's up to you.

**Mr Daigeler:** I was sure you'd say that.

**Mr Tony Martin (Sault Ste Marie):** I'm thankful for this opportunity to speak with you again at the end of what I thought was a very enlightening process of listening to folks who have a very, I think, sincere interest in this whole question. From everything I heard, it seems to me that it could be summed up in a number of ways, but for me in this way: One of the things is to try and find a way of bringing more resources into the system of delivering post-secondary education to students in Ontario. There are certainly some options out there, things we might look at.

The question in some people's minds is, do we do it as a corporate responsibility and put money into the system that will be spent in a way that will allow for an equity of distribution and access, or do we do it in a way that puts the onus of the burden on the particular individual who wants to access the system? There were various scenarios presented and I'm sure this discussion probably happened over the table at the review you're taking part in.

We heard a lot about the income-contingent repayment plan. It seems to be the hottest and newest model being looked at. The fear from some sectors is that this model may move more and more towards greater responsibility of the individual to participate in the funding of post-secondary education, and that certainly raises some concerns from people around the question of access, the whole issue of debt load and the fears people have in front of that.

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There was another option that wasn't discussed as much as the income contingency one that I would maybe like to throw out today and perhaps explore a bit with you and get some response to, because I think it's an important one to consider. It flows more from the notion that perhaps there is a corporate responsibility here that needs to be exercised as opposed to loading more and more on to the shoulders of individuals.

In light of some of the comments you and others made in terms of the changing demographics in the post-secondary grouping of people, I guess we might consider moving away altogether from having any tuition fees. That would lessen the load on people and create less need for moneys from OSAP. We might look at a more integrated program of assistance connected with the social assistance system so that people who go to college could access the system the way others do if they fall below a certain line in terms of their income, considering that there are lots of people who have a family, who want to go back to school, who are forced to go back to school; and there are people who are connected to a family but it's a sort of nebulous connection. There needs to be a more formal way of identifying that.

Has there been much thought given to that particular notion? I think, particularly from the comments you made, that if we're going to change the system maybe we need to do something bold. We seem to have been tinkering with it for the last 10 or 15 years, trying to find an answer that will work, and as you said, sometimes when you're up to your knees in alligators it's hard to remember that your initial intention was to drain the swamp. Certainly the income-contingent repayment plan is a bold step forward. I shouldn't say "forward" because that's sort of putting a judgement on it.

**Dr Shapiro:** It's a bold step.

**Mr Martin:** It's a bold step; that's right. Perhaps another bold step that might be considered is this one of dropping tuition fees and allowing students to access the social assistance system that's out there and in that way put the onus more on the corporate sector.

**Dr Shapiro:** I understand that. I have a number of things to say about it. The first is that we really do have to keep in mind that the review of the OSAP program had two motivators, an initial one and then an added one. It's worth keeping that in mind. Initially we were trying to take a look at the OSAP program because we thought it just needed reform; there were too many different kinds of students falling through the cracks and we needed to sort of rethink the criteria of the program and how one might improve its delivery, etc. That was what we called phase 1 of the review, if you remember my remarks from the opening day.

The second phase of the review, of course, had quite a different motivation. As the government began to review its spending programs, trying to manage within the fiscal constraints facing the province, it was asking the question whether there was a way to administer this program that would cost less money. That obviously leads you down a different path, or at least it might lead you



down a different path than the first one did. So there are those two motivations.

From the point of view of the Ministry of Colleges and Universities, just in providing post-secondary education, other things being equal, it would make things far simpler for us and far more straightforward for everyone if in fact there weren't any costs for post-secondary education, just as there are no costs for attending elementary and secondary school. I clearly understand the advantage of that. On the other hand I think it's only fair to say that Ontario's post-secondary system has almost the lowest per capita cost in the western world. Only France and Italy are lower, so it's a reasonably efficient system, at least as those comparisons go. Therefore, we're not in any position to reduce in a sense the income flow to the institutions without providing some alternative.

Now, the alternative you were suggesting as that rather than have this income flow from the individuals who attend the institution, have it flow from the public treasury as a corporate response to the need for post-secondary education. That would certainly resolve a lot of the problems you've heard talked about earlier during the hearings. It would not resolve the Treasurer's problem, however, in trying to deal with the fiscal restraints he's got to face.

It's only fair to add that it all interrelates to something else; that is, it can be said, after all, that individuals benefit from participation in post-secondary education. It's not just society that benefits; the individuals benefit as well and therefore they might be expected to make some contribution towards the achievement of that benefit. But that doesn't necessarily need to be done through tuition; it can be done through the appropriate taxing system at the other end. If you have a tax system that you regard as fair, then that takes those kinds of things into account.

I think the notion that might be a little less radical than the one you suggest, one which I like and which I think I brought forward when I was here the first time but I'll mention again, is that we design an OSAP system to cover direct educational costs and design a social assistance system to deal with the balance. It makes a lot of sense because it makes for a much more coherent public policy. It would, however, be a more expensive public policy because the OSAP standards for support are lower than the social assistance standards for support. It's not something that's easy to be proud about, but nevertheless it is the case.

I think the possibility of moving from an individual to a more corporate responsibility for these things is a real option conceptually, although there are people who will argue against it in terms of the kinds of individual benefit notions that I mentioned earlier, but it doesn't seem to be an immediate option in terms of the fiscal realities we're facing. I suppose one could always say that's just a question of what you decide to spend your money on, and I suppose that's true.

**Mr Martin:** Has there been any work done at all in determining some of the synergies that might be present or efficiencies that might be taken advantage of by combining some systems and allowing people, through the social assistance system, to be in college and university as opposed to out there looking for jobs that just aren't available?

**Dr Shapiro:** I understand. We do have a number of things moving in that direction, moving in that area. Under Jan Donio, who was with me the last time, there is a small group discussing OSAP issues with the Ministry of Community and Social Services to try to see whether, if we can't go to the program I've just been describing, we can at least meld the two programs better so that people know who pays for what, how it's accessed, where you get the benefits etc. They are discussing that possibility, and of course in all the training programs that are going on now and in various discussions that we're having on the college system, we are trying to not only provide regular programs, but open up special programs to people who are on social assistance so as to help people off social assistance. I don't know if that's what you were getting at with your question.

**Mr Martin:** Yes, that certainly was part of it. If you were not administering a very complicated tuition-OSAP program, you might be able to make savings that then could then be turned back into actual programming in schools.

**Dr Shapiro:** I think that is true. The savings would not be huge, as the costs aren't huge for the administration of the program, but they are not zero. It does cost something. It not only costs the ministry directly, but of course it also costs the institutions because in administering a financial aid program they have costs as well. But our costs, as I said, are about 1.5% of the total, which means they're somewhere around \$11 million or something like that.

**The Chair:** Time for one question from Mr White.

**Mr Drummond White (Durham Centre):** One question, but I had several: I have a rather academic question. We're at the end of these hearings. I've been struck by the number of very interesting presentations that have been before us, and frankly so many of them come from the academic community. They seem to be theses. I don't see nor have I heard a great deal of research into how this would actually affect people, and yet I'm sure we must have had research. We must have comparisons with other communities, states in the United States and other countries. The only presentation which I can recall having been fairly substantial in terms of the research values was that of the francophone community. That gentleman showed how the present system worked very effectively for his community and how they have particular needs.

I guess what I'm concerned about here is that this seems to be an area of significant policy. The whole question of accessibility and who we are investing massive amounts of provincial dollars for, I think, needs to be examined, yet I don't hear that this program will benefit these people or this program will emphasize the accessibility for middle-income people, whereas this one will not.

There was also no reflection of the fact that in the last 20 or 30 years, since OSAP was first developed, the population of post-secondary institutions has changed dramatically and the system has not changed to reflect that change in its clientele. I didn't hear that substantively from anyone other than a minor aside and I guess I'm concerned about two things: a lack of solid information upon which to base a decision, which isn't clear at the moment, and a lack of address to the fact that the clientele has changed significantly.



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**Dr Shapiro:** I think several things. First of all, solid information is not even conceptually available, let alone actually available, because solid information depends on having a situation in which you can compare a variety of alternatives to see what happens and a set of comparable situations isn't available.

What we do have and what we know a lot about is the effect of various financial aid programs on the composition of student bodies. We know, for example, there are a lot of jurisdictions out there, some of which provide no tuition, some provide free tuition and a living allowance and some charge very high tuition. There's a whole range of options out there and if you just look at the result of those, you find it has absolutely no effect on the socioeconomic composition of the student body.

The thing that leads people to make the choice for post-secondary education does not seem to be the cost, or at least not the upfront cost of post-secondary education. Much more powerful in this respect are family and parental expectations, the extent to which people are willing to give up or forgo income in order to have something different at the other end and variables of that sort. It doesn't seem to relate to whether or not you provide zero tuition or living allowances in addition, for example.

We do that because we can look at the various parts of the world, assuming they bear some relationship to Ontario without trying to pretend they're exactly the same, because they're not, but that doesn't really doesn't have an effect. It's more a matter of symbolisms, it turns out, than a matter of actual consequence for who attends. All these countries have some of the same problem we do, which is that the post-secondary education system is to some extent the class-based system. The people who attend post-secondary education tend to be middle-class, upper-middle-class, or at least people from those kinds of families, whereas people from less-advantaged backgrounds, at least less advantaged in that sense, tend not to make that choice nearly so often and it doesn't seem to matter which system of financial aid you use.

To some extent we are dealing with what we think will happen, not what we know will happen. In that sense, your comment is quite fair, but it's not because we wouldn't make the effort to find out. We just don't have the context in which it's possible to make those judgements, at least not really solid evidence.

On the question of the composition of the student body, you are certainly right in some respects. As I said in my own closing remarks, the composition of the student body is changing gradually. It's not changing nearly as dramatically, at least sometimes, as we would like, I must admit, but it is changing gradually in the direction we think is appropriate. It's a more heterogeneous group. It's more reflective of the population as a whole. There've been huge changes in the gender composition of the student body.

But there's another thing that's changed quite rapidly too, which we think about as we go to a different OSAP: The return to education at a later date is now much more frequent. Something that initially seemed quite appropriate—we would limit OSAP to the first four years of a post-

secondary education—is no longer so sensible as it once seemed because, if we're going to talk about lifelong education, we have to deal with you when you need it, not when we thought you needed it when you were young. I've often said that my mother still can't cope with the notion that life has changed. She thinks you go to school and then you go to work and that's that. Life has got more complicated for most people. That reflects her real experience. It's not that it just doesn't reflect that, it's just got more complicated.

One of the things we have to do as we try to redesign OSAP is to be more responsive to our own rhetoric. If we're going to talk about lifelong education, then we have to be there when the students need it, and it's not just, I should point out, a question of OSAP in this regard. I don't know, because I don't remember the transcripts in detail, whether, for example, anyone has raised issues such as paid educational leave, which is a much more dramatic possibility. It's going to have to be dealt with sooner or later, not necessarily only for colleges and universities incidentally, but for all kinds of other training programs, if we're really serious, if we're really going to meet people where they are and try to move it.

My hope for the OSAP proposal we bring forward is not that it will accomplish all of these things at the same time but that it will set out a set of appropriate standards and expectations and at least begin to move towards them. I don't suspect we'll be able to do it all at once. The resources simply won't be there for it, and not only the resources but to some extent the imagination and the consultation and the consensus. Nevertheless we want to try to set out standards and then at least move the program towards them, and if we don't quite meet it, at least we know where we're going.

**The Chair:** Dr Shapiro, thank you very much on behalf of the committee for your remarks this afternoon. You had asked when the report of the committee might be available. It is certainly our intention that it would be tabled in the House before we rise. I was going to say in June, but we may not rise in June. But it would be our intent to table it before we break for whatever summer recess may lie ahead. Thank you again very much.

**Dr Shapiro:** Thank you.

**The Chair:** Members of the committee, we now turn to a discussion of our report.

**Mr Wayne Lessard (Windsor-Walkerville):** I just have one issue I want to bring up, and this is a response to a question that was raised on May 11 by Mr Wilson. He was asking a witness, Ms MacCormack, whether there was any study that had been done to let us know how much it would cost to eliminate the current grant eligibility period, which is limited to eight terms, and if we were to eliminate that, how many of the 18,000 graduate students would require financial assistance. The witness was unable to answer and Mr Wilson directed that question to myself. As a result, I've checked with the ministry and the response is that the ministry is not aware of any such studies.

**The Chair:** Thank you very much for that.

In proceeding to discuss the report, I think everyone received a copy of a memorandum from our research officer, Alison Drummond, and what I thought we might do is to ask Alison if she would just review that memorandum orally, and then we can get into a discussion of exactly where we want to go.

It would be my suggestion, if it's agreeable to members of the committee, that we would reconvene on Monday, June 15. We would have approximately an hour at that time to look at the report, finalize it, and if we were to follow that schedule, I think it would then be quite feasible to table a report before we rise. That would be my suggestion in going forward at this point, but perhaps it is useful if I just ask Alison to run over the questions she put to us and then we can open it up in terms of exactly where members would like to go. Alison?

**Ms Alison Drummond:** Lynn seems to be looking after this, but it was actually handed around to the committee last week, so I hope everybody has copies now.

I finish off with the two major questions I have. First of all, I've presented one way of arranging the evidence we've heard from witnesses. Even when committees don't choose to make recommendations on particular issues—and the committee heard a whole range of issues being addressed in the last three weeks—I would ordinarily summarize what we've heard, even if the committee chooses not to address that issue specifically.

Starting at the bottom of the first page, I've organized—this is a possible way of organizing the report—under major headings of "Background" and "Directions For Change" and then recommendations that the committee chooses to make. If the committee is agreeable to that arrangement of the evidence and the hearings, I hope we can proceed to the more substantive question of what the recommendations will be.

1630

**The Chair:** I had discussed last week with Alison, when we weren't able to meet, that I thought in the interests of time we would probably want to have a summary of what had been presented and some of the proposals advanced by the different witnesses and that she could perhaps get started with that. I think we'd agree we have had some pretty substantial testimony with respect to the workings of this system and the kinds of proposals that are on the table and being looked at.

I'm wondering if in terms of our discussion now I might ask first of all, before talking about recommendations, if members agree that in drafting the report Alison would begin with a summary of the various submissions that were made and note any specific and particular proposals for change that were made. Is that agreeable?

**Mr Daigeler:** I think the outline that's before us can stand. It sounds reasonable to me. I think the main question that the researcher raised, and didn't mention so much right now, is whether we should focus exclusively on the income contingency question or have the broader review of OSAP touched upon. I would say that it should be both. I think the researcher mentioned that herself somewhat.

I think probably the primary focus will be on the income contingency issue, because it happened to come to the fore most of all and I think was the prime question addressed in the original question to be studied by the committee, but not to the exclusion of the other issues that were raised. For example, the deputy minister addressed some today surrounding the OSAP question. What has been prepared for us so far sits quite well with me.

**Mr Martin:** I have to agree. I think since all of us are up to our eyeballs in other work and business—

**The Chair:** I thought you were up to alligators.

**Mr Daigeler:** That was just to the knees.

**Mr Martin:** Yes, I've obviously missed the part of the anatomy that is usually referred to. Anyway, it would make sense that Alison put together a report. From my perspective, although some of my colleagues may feel differently, I think she's laid it out rather nicely here. What would flow from there would certainly, I hope, be circulated to all of us so that we might respond to it and feel comfortable with whatever report would go forward to the ministry.

I would not want, though, to place sole emphasis on the income-contingent repayment plan. That certainly was an item that was addressed on more than one occasion during the review, but there were other suggestions made by other groups that I think have as much legitimacy and need to be referred to in the report. I hope we would explore the vast array of suggestions that were made and present them in some of the light shed by some of the presenters. I have no difficulty with following the proposal being put forward here and then reviewing it.

My experience of other 123s, though, has been that each caucus brought its own report to the table and then there was a report developed in response to some of those concerns. But that took some time and created some discussion across the table that in some instances, in my own experience, wasn't all that productive.

**The Chair:** One of the things we talked about was in terms of the background summary and the various proposals that have been brought forward. It seems to me that is reasonably clear and could be brought together.

I think the issue then in terms of the recommendations we make, what members might like to have—if, say, we want to come back on the 15th and we would still have an hour that day to review the report and the recommendations—I want to ask Alison this—in terms of the timing, as a draft or drafts were prepared, what each caucus could be doing would be looking, as well, at what the more specific recommendations are that each caucus wants to make. It may well be that at the end of the day we're in fairly general agreement, or not, but I think you're quite right, that is really something each caucus would want to focus on.

**Mr Martin:** Another process we followed in the 123s I've done so far, as well, is that in order to save some time the subcommittee met to consider a report that would be brought, and if it looked like it would get some general acceptance from everybody then it would cut back on the amount it went back and forth.

**Ms Drummond:** If I can just quickly address these issues of timing, what I am hoping is to have a draft for



circulation to the full committee on the 11th. I'm hoping to distribute a copy of the report to the committee on the 11th so that everybody on the committee will have a chance to look at it over the weekend before we come back on the 15th. Then, if the subcommittee decides to meet before that, it would be a good opportunity to consolidate recommendations, for me to look at recommendations. When I've worked on 123s in the past, I've often been given recommendations from each caucus and there tends to be a good bit of common ground. The areas where there isn't a consensus can be focused on in the full committee meeting.

**Mr Martin:** I think Mr White wants to comment.

**Mr White:** I just want to add a couple of points. Most of the testimony we've heard from witnesses has had to do with a choice between two different systems. Frankly, I am concerned that we may be going from a system that everyone recognizes as being flawed, as having some major problems, to another one that may well have some advantages or some disadvantages but may not in the long run be preferable.

I think we should be looking at a couple of things. Perhaps we need to have different systems for different people. We're not dealing with all 18- to 21-year-old, white, middle-class males, but rather with a range of different people from a range of different backgrounds, and one program that would fit for one group may not fit for another.

I'm also concerned, as I mentioned a few moments ago, that this is a major issue in terms of policy and I'm not sure that we as a committee, or the ministry, have sufficient information upon which to act.

One issue is whether we should be looking at a choice of yin and yang, of black or white, or should we be looking at a system that might well be a variable, depending upon the clientele and the people involved. Further, do the needs for financial assistance vary relative to the institution that's involved, not just the person but also the institution? If one's going for a six-month course at a community college, will one have the same needs as one does with a four-year BA at a university, or again with a private vocational school or vocational training which might be part-time or full-time?

The other concern I would have is around values. We addressed the value issue earlier in our work. I think there may sometimes be a conflict between the values we are endowing the system with, the things that are important as far as we're concerned, the issues around accessibility, affordability, the debt load issues. Are those concerns intrinsically conflictual with the institutions that person is attending? For example, are the people who were worried about a debt load going to be in one of those seven-year-long PhD programs and end up with a debt load they can never escape from? Those are just basic issues that concern me.

The other minor difficulty I had is with the proposed directions for change next to the third bullet that says "the economic benefits of post-secondary education, to both the individual and society." I would suggest changing that to simply "the benefits of post-secondary education," because I think there are greater social benefits than economic benefits alone.

**The Chair:** I understand we may be able to correct the microphone situation if we have a short two-minute hiatus. I will adjourn the committee for two minutes.

The committee recessed at 1640.

1642

**The Chair:** We are now back live and on the air in living colour. In terms of the comments Mr White just made, I wonder if in the time frame that has been suggested, that we look at meeting again on the 15th, if we could get a draft and if each caucus could then focus on the nature of the recommendations. I think it would be quite appropriate, responding to the point Mr White made, that one would want to perhaps put that into a certain context as part of the recommendations. You spoke in terms of values. That might be a good way to approach it.

The subcommittee could then look at what those proposals were, to see where there were areas of agreement and harmonize those. Then at the end we could focus our discussion either on the areas where there is not agreement or on other things that may arise. I think we should use the subcommittee to try to deal with as much of that as possible, so that in the hour or so we would have at the end of the whole 123, we could focus specifically on the recommendations, because I think there is a pretty general agreement on the nature of the summary and the description.

**Mr Martin:** I buy that. I think that's a good process. We'll try to come up with a set of recommendations that we'll present to Alison, who can then incorporate them into her report in some way. Then, as a subcommittee, we can have a look at that to see if it's acceptable or not.

**Mr Daigeler:** What are we talking about now? I thought we'd get the report and then take a look at what recommendations will flow out of that report. Isn't that what we're talking about?

**The Chair:** Yes, although I think that would help in expediting things. We'd probably want to have a meeting of the subcommittee, I would think, perhaps on the 9th next week to look at what we think ought to be some of the recommendations. I'm just trying to expedite our work.

**Mr Martin:** Yes, I think it would expedite the process if Alison had some sense of what we saw as important out of this so that we don't come in cold on the 15th with all these recommendations that are just not in the report. What I'm saying is that we as a caucus are going to bring forward to Alison some of what we think should be in the report and then she can do with it—

**The Chair:** Why don't we agree that as each caucus's recommendations or proposals are developed, we'll just share them, and also with Alison?

**Mr Martin:** Yes, that's a good idea.

**The Chair:** That way we all know where we're at, so when we get to the 15th that would expedite that discussion. Would that be all right? I know she's trying to have a draft that we could circulate to everyone on Thursday the 11th. Perhaps we could say that by the 9th we would have a sense of recommendations—and I'll speak to the Conservative members as well—but that doesn't mean there can't be others that come forward on the 15th.



What we might do as well, as we're going to have something like an hour of time left for the committee, is if there's a need on the Monday for a meeting of the subcommittee prior to the full committee, we can schedule our full committee meeting, instead of for 3:30, for 4 or 4:30, if that makes sense. Does that sound like a useful way to proceed?

**Mr Daigeler:** I guess the Tories gave you full power to act.

**The Chair:** They did. It's a rare opportunity that I have. I would just say to those watching that I discussed with the two Conservative members, who had to leave, that this process would be agreeable to them.

**Mrs Yvonne O'Neill (Ottawa-Rideau):** Where is the translation of the report, or do you intend to do that?

**The Chair:** I'm sorry?

**Mrs O'Neill:** How will the translation of this fit in with presenting this before the end of the month?

**The Chair:** That will work. I'm confident that will work. We've looked at it and if we can get it finalized on the 15th that will work out. As I said before, it may be that there's a little more time in any event.

If that's agreeable to everyone, I would suggest we adjourn until the 15th. At least at the moment, we would meet after routine proceedings, but the subcommittee can determine the exact hour. Thank you. We're adjourned.

The committee adjourned at 1648.







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Dr Bernard Shapiro, deputy minister	

### STANDING COMMITTEE ON SOCIAL DEVELOPMENT

- \***Chair / Président:** Beer, Charles (York North/-Nord L)
- \***Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)  
Drainville, Dennis (Victoria-Haliburton ND)
- \*Fawcett, Joan M. (Northumberland L)
- \*Martin, Tony (Sault Ste Marie ND)
- \*Mathysen, Irene (Middlesex ND)
- \*O'Neill, Yvonne (Ottawa-Rideau L)  
Owens, Stephen (Scarborough Centre ND)
- \*White, Drummond (Durham Centre ND)
- \*Wilson, Gary (Kingston and The Islands/Kingston et Les +les ND)  
Wilson, Jim (Simcoe West/-Ouest PC)
- \*Witmer, Elizabeth (Waterloo North/-Nord PC)

#### **Substitutions / Membres remplaçants:**

- \*Cunningham, Dianne (London North/-Nord PC) for Mr Wilson (Simcoe West)  
Lessard, Wayne (Windsor-Walkerville ND) for Mr Owens
- \*Sutherland, Kimble (Oxford ND) for Mr Drainville

\*In attendance / présents

**Clerk / Greffière:** Mellor, Lynn

**Staff: Personnel:** Drummond, Alison, research officer, Legislative Research Service

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## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Tuesday 23 June 1992

### Standing committee on social development

Student assistance  
Committee business

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

Mardi 23 juin 1992

### Comité permanent des affaires sociales

Aide financière pour les étudiants  
Travaux de comité



Chair: Charles Beer  
Clerk: Lynn Mellor

Président : Charles Beer  
Greffière : Lynn Mellor



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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 23 June 1992

The committee met at 1543 in room 228.

### STUDENT ASSISTANCE

Consideration of the designated matter pursuant to standing order 123, relating to student assistance.

**The Chair (Mr Charles Beer):** I call this meeting of the standing committee on social development to order. Let me at the outset make a couple of comments.

First of all, the Progressive Conservative caucus has told me to go ahead. The problem we have is that Mrs Cunningham, who would be sitting in, is fine but has had to have an operation today which was unexpected. They believe that in general the report is fine. What I have been asked, and I said that I felt this was fair, is that if she has a particular concern or wants to make a suggested change in wording we would permit her to do that and I would bring that to the subcommittee. The subcommittee, if it felt that was something we could all agree to, would then be permitted to okay that in terms of the final report. If the subcommittee didn't agree to it and Mrs Cunningham wanted to make a specific recommendation, she could do that in the context of a minority report. But I just felt, given the time and the difficulty we've had in getting together to complete our work, that we should go ahead.

I have also had an opportunity to speak with Mr Martin from the riding of Sault Ste Marie, who is not able to be here. He perhaps has spoken with the New Democratic members, but he has said that he believes that the report is in order and that the government members would be able to support it.

That being said and if that is agreeable, I would need a motion, the clerk informs me, that subject to any—

**Mr Hans Daigeler (Nepean):** Just before we go to a motion, should we have some discussion on the report and the recommendations that are before us?

**The Chair:** Yes, we will do that. Did you need the motion first?

**Clerk of the Committee (Ms Lynn Mellor):** We can do it now or later.

**The Chair:** Okay, we can do it later. That's fine.

You have all received a copy of the report plus the recommendations. I would suggest that I just read into the record the recommendations and then I would open up the report and the recommendations for discussion. Is that acceptable?

There are five recommendations that read as follows:

"1. The committee endorses the review of Ontario's student assistance program currently being conducted by the Ministry of Colleges and Universities, and all of our recommendations are intended as a contribution to this important process.

"2. The committee recommends that the review should be guided by the principle that changes to the system must protect and improve accessibility. It should pay particular attention to those in our society who, for a variety of reasons, have traditionally been left out of our universities and colleges. This principle should govern access to student aid, as well as to higher education generally; the ministry should consider how to ensure that people who want to pursue a higher education could have access to at least a loan for that purpose.

"3. The committee recommends that the review should also be guided by the principle of affordability, for both the government and the student. Any plan must be fiscally viable, a premise which we are confident from our hearings that the ministry shares. For the student, the system should take into account all financial commitments, not just tuition fees.

"Living expenses, child care for single parents, and extra material costs for disabled students are of particular concern to the committee.

"The review should examine the possibility of coordinating the social assistance and student aid systems, particularly in the areas of assessing living expenses and support for dependants, and enabling recipients of social assistance to pursue higher education.

"The student aid system should be based on actual earnings, savings and needs, and not be solely based on prescribed limits and formulae.

"Finally, the plan must take into account how the student is able to carry and repay their educational debt (debt counselling should be available to students applying for OSAP).

"4. The committee recommends that the ministry fund some pilot projects relevant to an income contingent repayment system. Possible projects could address: students at vocational colleges or particular programs at community colleges, where programs are shorter and the benefits to personal income more immediate; using the concept of a contract between student and the government in the present system.

"5. The committee recommends that any income contingent repayment approach to the student loan system should be guided by the following principles:

"Such a loan system will not be the only possible source of student aid, ie, grants will be retained and directed to people in need;

"Repayment rates, threshold income at which repayment would start, and the time after which the loan would be forgiven should be agreed upon in a contract between the student and the government;

"A form of means test should be retained so that families who can easily finance higher education for their members are not subsidized by the loan fund;

"eligibility for the loan should not depend on the type of program being pursued. Existing restrictions on eligibility for part-time students and on the grant eligibility period counteract the policy, which the committee supports, of encouraging lifelong learning."

Those are the five recommendations that have been put forward. I open discussion on the body of the report itself and the recommendations, reminding members that we have—if I can find my clock—one hour and 42 minutes, starting about five minutes ago. I'm not saying we have to use that time up, but it's 10 minutes to 4 and that would take us to almost 5:30 would be the max. Any comments or suggestions?

1550

**Mr Daigeler:** It would be my impression that we don't need to take the full two hours unless we hear some very different things from the government.

I thought the recommendations that were put together by the researcher reflected quite well the general indications that the subcommittee gave to the researcher, for which I was present. I'm quite satisfied with the recommendations. I think they reflect a deep concern that has been expressed at the committee hearings about access to higher education by people who presently have difficulty accessing it. I think that's most important.

I think it also points out well the difficulties that are associated with the possibility of an income contingent repayment plan. It doesn't totally shut the door on it, but I think it does indicate the complexities of that question in terms of the high debt load, the impact on the financial capability of the student, and it points out the strains on the government resources as well.

While the recommendations may perhaps not be the final answer to the issue, I think they point out faithfully the range of opinions we've heard and I think put forward a reasonable balance between what may have been two contradictory positions that were coming forward at various times at the committee level. Generally I'm quite pleased with what I see here; Ms O'Neill may want to comment as well. I would be prepared to support the recommendations as they're written right now.

With regard to Mrs Cunningham, I'm prepared to meet in terms of subcommittee and if she has further comments to let the subcommittee make a final decision. One thing's for certain: There was some indication at the subcommittee that the third party wanted to have a stronger support for the income contingent repayment plan, and already at this point I want to indicate that I would not be prepared to make that part stronger, but I can accept what's here now.

**The Chair:** Thank you. Any other comments?

**Mrs Yvonne O'Neill (Ottawa-Rideau):** Because I wasn't part of the subcommittee, I'm wondering about the first bullet under point 3: "extra material costs for disabled students." I'm not sure that's the best way to describe the extra costs, and I don't really know what that means. I guess what I'm concerned about is that not only are there appliances and equipment, but there are also costs often for things like attendant care. If you were part of the discussions—

**The Chair:** The way that was worded it says "are of particular concern to the committee," so I think the idea was simply that those would be taken into account by the—

**Mr Daigeler:** Perhaps we could drop the word "material."

**Mrs O'Neill:** That would help.

**The Chair:** So it would read "living expenses, child care for single parents and extra costs for disabled"—

**Mr Daigeler:** I'm sure nobody would have difficulty with that.

**The Chair:** Does that sound all right to other members? We just take out the word "material" and simply say "extra costs" which would—

**Mr Gary Wilson (Kingston and The Islands):** I was wondering whether we couldn't put a couple of examples in there. When I read "extra material" it didn't say anything to me and I was going to raise that.

**The Chair:** If it says "extra costs," presumably that's a more open direction to the colleges and universities committee. If we start to get into a lot of examples—

**Mr Gary Wilson:** Okay.

**The Chair:** So are we agreed to take out "material" then?

**Mrs O'Neill:** That's fine. It'll satisfy my needs.

On the third bullet point under 3, again I would like some explanation of what you mean. Are there time lines on the "actual earnings, savings and needs"? I certainly agree with the thrust of that bullet point, but if I were asked to explain it I wouldn't be able to, because I don't know whether you mean starting the day of graduation—I mean, there are all kinds of ways in which this can be interpreted, and if we're going to make recommendations they should be helpful and we should be able to explain them. Maybe that's novel, but I'd like to try that.

**The Chair:** The idea of shedding light.

**Mrs O'Neill:** So would someone who was on the subcommittee like to say what they were actually thinking there?

**Mr Daigeler:** I'm the only one who was at that subcommittee meeting other than Lynn. We didn't go into any detailed recommendations. We had a document in front of us that spelled out some general ideas but we didn't speak about the specific formulation. However, I think this formulation was taken from some report; if you look at the content of the report, this recommendation appears somewhere. Frankly, I had put a question mark as well next to it, but then I thought probably what we mean here is that the system shouldn't be too bureaucratic and that in the application of the rules and regulations—here they use the words "limits and formulae"—there should be a fair consideration of the actual individual's circumstances. That is my reading of this.

**The Chair:** Given the way these are framed as bullets under the sort of preambular comment at the top, I wonder whether these are really there as considerations for the committee reviewing the whole system and that "should be based on actual earnings, savings and needs, and not be solely based on prescribed limits and formulae" is simply



to provide for some flexibility as to, for example, would the repayment begin a year after graduation, or at some point after you start a job. Mr White is going to clarify this perfectly for us.

**Mr Drummond White (Durham Centre):** No, it's on another point.

**Mrs O'Neill:** On this point, I think if we are going to be helpful—and Mr Daigeler is the one who was there—if it's financial circumstances, "all aspects of an individual's financial circumstances" would make it easier for me.

**The Chair:** Where would you put that?

**Mrs O'Neill:** This bullet point, instead of "actual earnings." The reason I'm having trouble with this is that this is such a controversial part of some of the possible directions, particularly the income contingency plan. I guess I've got an ear for students at this moment and I particularly don't want them to get worried, at the moment they read this, to read into it something that isn't our consideration.

**The Chair:** So what words could—

**Mrs O'Neill:** Mr Daigeler suggested that really we're talking here about financial circumstances, and maybe we want to say "all aspects of an individual's financial circumstances." If that's what we mean, then I think it's better than having "actual earnings, savings," because then, as you know, people get all concerned about equity and the OSAP. These words all have a meaning in reference to student loans and student grants.

**The Chair:** So if we said "the student aid system should be based on all aspects of an individual's financial circumstances."

**Mrs O'Neill:** I think it would give the committee flexibility but it wouldn't tie them or put their ideas into a context that maybe we don't want it in.

**The Chair:** Let me read that out for everybody. The third bullet under number 3 would read: "The student aid system should be based on all aspects of an individual's financial circumstances." That certainly is clear to me and may express that thought more simply. Thank you, Mrs O'Neill; I think that is clearer.

Mr White, you had a point?

1600

**Mr White:** Yes, I had a couple of concerns in regard to recommendation 2. It is an excellent recommendation, but I would like to suggest that it be strengthened in a couple of ways.

As with recommendation 3, I think there are several points that should be highlighted, perhaps bulleted. The emphasis on accessibility, particularly as it comes as number 2, I think is important. I would suggest that after the end of the first sentence we have a bulleted point which talks about the additional funding for equity of access to universities, whether that is for women, aboriginal people—people who are not, as this describes, easily or traditionally included in the college and universities system. There should be a bullet which describes these kinds of access programs, access funding.

I think, however, there is also the point that was made during our hearings about the kind of people who are now

making use of the post-secondary education system: many more women than in the past, many more people of an older age group, people returning time and again for different degrees—the whole idea of lifetime learning. People who are in their 30s and 40s, people who have children, people who are single parents etc have different issues, of course, than do youngsters.

So for those reasons, I think we need to have a separate bullet point to describe their particular needs, whether that's a life-cycle access—these are people who would be to some degree ruled out because of the stage in their life cycle, because they are in their 30s with two children, because of other issues and not simply because of who they are as women or as aboriginal people. So this would be something which reflects the changing role education has and allows for access to those other people.

Are those instructions adequate? Is it agreeable?

**The Chair:** Can I ask you a question? When this was being drafted, one of the questions that came up was around whether we should specify. One of the issues was, would it be better to have it general so that in effect you can cover—perhaps the more obvious groups that come to mind are different age groups. That also leads to flexibility in that if there are ones you don't think of, you could do it. I don't think there is necessarily a problem with having some sort of a bullet.

**Mr White:** If I could review that again, I would suggest that we're looking at not just non-traditional students because of ethnic or other reasons but also improving access relative to post-secondary education as a life-long pursuit and to ensuring that people, regardless of where they are in their family life cycle or their individual life cycle could have access. So there actually are three bullet points in regard to accessibility.

I realize that's perhaps more specific than is here, but the first point you have mentioned or that the subcommittee mentioned is significant, because that is certainly the creative, affirmative action kind of program and it speaks to those kind of equality-seeking groups, but also the others I think speak to the trends we've seen.

**The Chair:** I think your point is clear, but I suggest that, subject to other thoughts specifically on that, perhaps what we could do is have two bullets, maybe three, beneath the paragraph that's there that would, if you like, make those points clearer. I think you're quite right that it's the same principle but a different focus that you're placing. We could recast that in that light, obviously, and bring it back and show it to people, but we could set it up similar to 3.

**Mr White:** Thank you.

**Ms Anne Anderson:** Could I just check the three groups I thought I heard you talk of? One is the ones who have traditionally been excluded, the ethnic groups and others. Another one is to get improved access for life-long learning throughout your life. The third one is to ensure that people, regardless of their family situation or their age, can have access to universities, so it doesn't matter whether they have families or whether they're straight out of high school.



**Mr White:** And those people in that third situation may have special difficulties relative to having, say, young children at home.

**Mr Daigeler:** I wouldn't want to formulate it, though, in such a way as to be in any way, shape or form delimiting. I think it should be used as examples, "such as." My point is that we have to be in an ongoing way concerned as to who may be at any particular time excluded from the process. If we have a clear category that "You fall into this," we may easily overlook others that develop as the situation changes; in fact, the fact that we have these part-timers and the groups he has just mentioned is really a relatively new phenomenon. So I wouldn't want to have these as isolated categories, but to limit some of them as examples I think would be quite appropriate.

**The Chair:** I think we could word it that way so that it would meet Mr White's point and also ensure that we don't delimit.

**Mr White:** I had one further concern, if I might; this is a point my colleague Mr Wilson brought up. Item 5, the third bullet point down: "A form of means test should be retained so that families who can easily finance higher education for their dependent members"—should be inserted; obviously one's not necessarily responsible for one's cousins or mothers or whatever—"are not subsidized by the loan fund."

I have some concerns in regard to that; that is very simply that some of the witnesses spoke to real problems in terms of the eligibility, the scrutiny and means testing that has occurred. I think it's a highly problematical issue, and we're introducing the issue of family dependency into the income contingency repayment plan. I guess I have problems with it within the present OSAP system, and if we're going to extend that to another one I have some strong concerns.

**The Chair:** I sense in the way that all of these have been worded, and the word is used as well in 5, that any income contingent repayment approach to the student loan system should be "guided by" the following principles. It would seem to me therefore that it doesn't specifically state how that ought to work but simply that there should be something there that would deal with, I think you pointed out, dependent members. It makes that part clearer. These might not all be included by the committee that has been set up which takes in all the different players. If we include that word "dependent" will that meet you—

**Mr White:** No. It clarifies that sentence alone. My concern is that this is a major problem with our present system: the means testings, the way in which that can be done in a very pejorative way. I'm not suggesting that there's an easy way out, but if we're highlighting it in one area I think we should highlight it as a problem in another area as well.

**The Chair:** Discussion on that, Mr Daigeler?

1610

**Mr Daigeler:** I'm not sure whether I hear Mr White properly, but you seem to be saying let's move away from requiring parents to contribute to the higher education side of their children also. If you're saying let's not have a

means test, that would be it, would it not? I don't think I'm prepared to do that.

**Mr White:** I'm not suggesting that we necessarily need to move away from a means test. However, I am saying that this is an issue that was brought up with some concern in regard to our present OSAP system, that the means test has been used in a pejorative way. Obviously it's not as relevant if you're 25 as it is when you're 18. It has been used as a way that where someone is not receiving assistance and needs that kind of student assistance on an immediate basis in September and doesn't receive it until much later, people end up dropping out of school, first year of university or whatever that might be. There are a lot of questions about how fairly and regularly those criterion are applied. I'm just saying this has been an issue. It was brought up and I think it needs to be addressed.

**Mrs O'Neill:** Mr Daigeler and I both think it is tied in with the point we discussed earlier: "all aspects of an individual's..." You may want to add something there: "a means test based on all aspects of a family's financial circumstances." I think people brought to us certain circumstances, whether illness within the family or chronic illness or extraordinary needs for child care; even distance can be a problem here, distance to an educational location. So you may want to try and tie it in with the point we made earlier, because I think that's what we're trying to say, that it shouldn't be terribly bureaucratic, but there should be some way to humanize it.

I think the deputy minister when he came basically told us that the technology has improved considerably in the ministry, and perhaps this kind of software could be developed as well that would be more attuned to—what should I say?—a broader scope of financial circumstances.

**The Chair:** In listening to these comments, number 5 is posed in terms of principles. Is the principle here one that families who can provide assistance should be encouraged to do so? Perhaps it's more than that, that they ought to. The means test or some other kind of thing is the mechanism, but the principle is that where families are able we would still encourage them, want them, feel it is a good thing that they play a role.

**Mr White:** I certainly agree with your phraseology, Mr Chair; the idea of encouraging families who are capable of assisting in all ways possible. The issue of a means test I have concerns about because it has been found to be wanting. If we have examined it, and I believe we have and many other aspects of the OSAP program, and don't comment on that concern, it essentially sounds as if we are endorsing it holus-bolus. So I think your phraseology about the encouragement as opposed to specifically naming a means test might be a way out of the problem, without including that issue of the means test elsewhere.

**The Chair:** Could I read out wording that's been put forward? Listen to this and try this out. Beginning at the start of the bullet, "An improved means test that considers all aspects of an individual's financial circumstances should be retained so that families who can easily finance higher education for their dependent members are not subsidized by the loan fund."

**Mrs O'Neill:** I think you're contradictory in that statement, because the kind of means test we have now—I don't like the term any more than Mr White does, but the term is easily understood. We don't consider an individual when we're applying for the OSAP grants as they exist. As you know, it's family income that's considered. So I don't think you can say "all aspects of an individual's" if that's what we're going to change to.

**Mr White:** How about "all aspects of an individual's financial situation, including their family context"?

**Mrs O'Neill:** This is not going to be easy to express. I hope we all believe that families who have children have a responsibility to educate them at the post-secondary level if their circumstances are stable. I think we're lost if we don't believe that somewhat. To do that is like anything else: There has to be some criteria. We can maybe change the term "means test." I don't know whether the researcher has any other terminology, but we have to have the principle that parents have an obligation to contribute if at all possible and for the most part—I don't know what the percentages are, but they're pretty high—parents do participate.

We also have to look at the other end of the scale. Do we want to encourage young people to have a lot of debt when they come out of post-secondary, because they got involved in something that maybe was too easy to get into? That concerns me greatly. There are ways around all these means tests and I'm sure there are loopholes; I'm sure the deputy could have given us examples if we'd asked. But it's a complex issue and to simplify it by trying to change the words "means test" is going to be difficult. I'm open to another word, but we have to have some threshold and some criteria to have people say: "This is not possible. This family cannot support the student at all."

**Mr Daigeler:** If we are in favour, as I am, of continuing to request a contribution from the parents, there will have to be some test, and that's been traditionally called a means test. Frankly, I can live with the formulation you have. Again, the important element here is the principle, as you indicated, Mr Chairman.

**Mrs Irene Mathysen (Middlesex):** Mr Chair, I hope you don't forget that I wanted to comment.

**The Chair:** No. I just want to finish this point that Mr White raised initially. Let me try one other thing to try to meet Mrs O'Neill's point. What if we said instead of "a form of a means test" an "improved" test, a recognition that we can do better: "an improved means test should be retained so that families who can easily finance higher education for their dependent members are not subsidized by the loan fund." It seems to me that if you put "dependent" in you really are talking about a certain group as opposed to older offspring and so on, and that "improved" says we recognize the need for some sort of mechanism but it's got to be better than what we've got.

**Mr White:** Certainly those two minor alterations satisfy my concerns.

**Mrs O'Neill:** No problem.

**The Chair:** Just one last time from the top: "an improved means test should be retained so that families who

can easily finance higher education for their dependent members are not subsidized by the loan fund."

Ms Mathysen.

**Mrs Mathysen:** Thank you, Mr Chair. At the risk of sending the subcommittee into a moment of hysteria, I'd like to comment on item 4 and say that I have very serious reservations about this income contingent repayment system. In fact, Mr Chairman, I don't like it at all, and I am very, very uncomfortable about it appearing in this document. Even the suggestion that the ministry may wish to study it further bothers me very much, because like many of the witnesses I have very real concerns about its perceived benefit. I think the whole purpose of what we were doing here was to look at how OSAP can in fact make post-secondary education more inclusive, and I was convinced that looking at a looming future debt that could be overwhelming would convince a significant number of people not to pursue post-secondary education at a time in this province when we need all of them, every person we possibly can include in post-secondary education.

I would like to see number 4 eliminated entirely. That of course would cause the need for some revision in number 5, quite simple revision. You'd simply have to remove from the first line "income contingent" so that it would then read "The committee recommends that any repayment approach...." Then in the first bullet, if you changed "such a" to "any loan system will not" you wouldn't have a great deal of revision to make.

1620

**The Chair:** Discussion?

**Mr Daigeler:** To talk about the subcommittee again, even though I chaired the subcommittee so I'm supposed to be neutral, I was the only Liberal there so I—no, I wasn't; Joan Fawcett was there as well. Anyway, it was your whip who quite strongly made the point that he did want to see something about income contingency in the recommendations and the third party was even stronger. I would expect that Mrs Cunningham, if she does make an additional recommendation, will request that we formulate some clear support of the income repayment plan.

As I already indicated at the beginning, I would not be in favour of that. However, I think what's here accurately reflects the positions that were spoken about, certainly from the government side and from the Liberals at the subcommittee meeting. If there was anything, it was the Tories; Mrs Witmer wasn't 100% sure because she was representing Mrs Dianne Cunningham, but Dianne Cunningham had indicated she wanted a stronger or a relatively strong support for the income contingent repayment plan in the recommendations.

**The Chair:** May I make what I hope will be a helpful suggestion? Let me go back a step here. One of the things that's unusual with the 123s is that we go through them, by and large we get a lot of information on the table and we prepare a public record, but at the end as members, we don't necessarily say, "It's that one thing there" or "It's that one over there," that we don't have a final answer. Particularly here we've been suggesting approaches or areas we want the committee to look at as it goes forward.



Would there be a way of expressing number 4 in this context? Because I think Mr Daigeler's right, that if we're trying to put together a report that would have the support of all members, which I think carries more weight, we are going to have to deal with this one and I think we're going to have to use the words "income contingent." If we were to say in number 4 something like—

**Mrs Mathysen:** Go ahead, Mr Chair.

**The Chair:** I had it in my head. "While there were a number of members who had real concerns about the income contingent repayment system concept"—that's getting wordy, but—"the committee none the less recommends that the ministry consider funding some pilot projects in order to better assess this approach as part of an overall student assistance program."

**Mr Daigeler:** I'd have some difficulty with that, Mr Chairman. I think the way it is leaves it quite open, doesn't go into who is for or who is against. I would feel much more comfortable with what's here than what you're proposing.

**The Chair:** Can I try one other?

**Mrs Mathysen:** All right.

**The Chair:** "The committee recommends that the ministry fund some pilot projects to assess the use of an income contingent repayment system."

**Mr White:** Might I suggest—bear with me, Irene; I hope this meets with your concerns as well—that the issues of affordability and accessibility as outlined above would need to be borne into an evaluation of those income contingency repayment projects, that those are the essential criteria. Certainly the witnesses before us had extremely strong concerns about those issues.

**The Chair:** I think I understand your point that one makes clear within the body of the fourth recommendation that the two principles we've asserted above, affordability and accessibility, would also be relevant to any assessment of income contingency, that those two principles would guide—

**Mr Daigeler:** That's generally fine with me. I just want to indicate again that at the subcommittee meeting the government whip clearly indicated that he wanted some reference to the concept being at least further studied. The third party—and they should really speak for themselves—were very strong on having something there, so if we take it totally out I'm sure the third party would want to submit a minority report. But what you've just suggested is agreeable to me.

1630

**The Chair:** I'll take more comment. We're just trying to work out a wording that would bring in those two principles. Can we take a second here? Our diligent researcher is putting words together.

So number 4 would read: "The committee recommends that the ministry fund some pilot projects to assess the use of an income contingent repayment system. The principles of accessibility and affordability outlined above should be considered as essential criteria."

**Mr White:** "Essential criteria" or "critical criteria in the evaluation of these projects."

**The Chair:** Would you want to say "in the development and evaluation?"

**Mr White:** Thank you, yes.

**The Chair:** In my view, what we would be doing with this would be saying to the committee and to the ministry: "Look, this is something which you should consider, should assess, and that setting up some pilot projects might be a useful way to do that as long as those pilot projects, both in their development and in their evaluation, are based clearly on principles of accessibility and affordability."

**Mrs Mathysen:** I see what you mean, Mr Chair, and I understand that the ministry does have an obligation not to simply rule things out. It's just that this particular method of repayment leaves me with very grave concerns. Personally, I don't want to be seen in any way supporting it or recommending it and I'm having a little bit of difficulty getting around that.

**The Chair:** I appreciate that. I guess really what the committee and what we are doing would be simply saying, "Let's fund some pilot projects in order to assess this approach."

**Mrs Mathysen:** Or how about "the ministry has the option of?"

**Mrs O'Neill:** This isn't going to wash. You can't water it down much more than we've done here and have our support.

**Mrs Mathysen:** You can eliminate it. That'd do it.

**The Chair:** This was an area where there was a strong difference of opinion among different presenters; none the less, it is an approach that was suggested and what we would be doing here is simply saying, "This needs to be looked at more fully." Mr Daigeler's earlier point, though, is that in the absence of our colleagues from the Conservative caucus if we are trying to put together recommendations we could all support, we're going to need to have some reference to this in some form or another.

**Mr White:** To resolve this difficulty—I request Ms Mathysen's endorsement here. Here we have a recommendation that there be pilot projects funded and the issue explored. If we were instead to acknowledge that this is something the ministry may well be doing and we understand that this is quite possibly ongoing, rather than ourselves saying and recommending it due to the strong reservations that exist perhaps we could instead say, "Should the ministry fund some pilot projects to assess the use of an income contingency repayment system," then these are the criteria to evaluate them with, as we've outlined already. In a sense what we would be doing is acknowledging this is probably going on but not specifically recommending it; however, saying that if it is happening, this is how you should evaluate it.

**Mrs Mathysen:** I could live with that perhaps better than—

**Mrs O'Neill:** I think we have to remind Mrs Mathysen that this was a recommendation from her party at the subcommittee meeting, so the division is among the NDP members of this committee. It's really very difficult. We had a lot of presentation on this particular subject matter.



There is agreement among the three parties to have it. In my mind, it's in the mildest possible form here: "pilot projects." This is the way destreaming got started, folks, and it was with the NDP suggesting it as pilot projects.

So to water it down and to say, "Oh, yes, we know things are going on out there" and we may put a couple of guidelines on them—let's get real. Let's give some direction and make this report meaningful. It is definitely something that is gaining profile within the university and college communities. Are we going to pretend we don't know what's going on out there? That's basically what we're doing. It's an option some people want us to look at; in fact, quite a few people want us to look at it.

**Mr White:** We have devoted about 40%—in fact, almost half—of the written recommendations to the issue of an income contingency repayment plan. It would speak to our concerns about it and our guidelines about it. Obviously, as you say, it's a very current idea. We want to resolve this difficulty. While I agree that as a caucus we may not be united in terms of degree of support for any particular idea, I think that as a committee we can discuss these issues and come to a consensus. I think Ms Mathysen's concerns are real and genuine and shared across the board by many people. The reservations that she's expressed need to be listened to.

**Mr Daigeler:** I quite agree with Mr White. In fact, I'm quite pleased to hear such a strong view from the government side on that question because up till now it hadn't been there. I had the impression it was rather going in the opposite direction. I can only go back to what Mr Martin at various times in the committee meetings here had indicated, that he certainly was prepared to look at it. I don't think you from the government side can separate yourselves so totally from the ministry that you can say, "Okay, I know they're going to do it, and should they do it, then they should take those things into consideration." I just don't think that will wash with the public. You are members of the governing party and therefore the ministers are members of your caucus.

I find that the formulation that is there is a reasonable one, because at the subcommittee I was the one who was the most reticent about talking about the income contingent repayment. I said that in view of having a report subscribed to by all three parties, that's something I am open to, to study the matter further and to have it looked into. I'm not very optimistic that the study will say it's a viable option, because there are a number of issues that remain very much open.

**Mr White:** There are indeed. I'm wondering if we could have a five-minute recess in which we could caucus briefly on this issue.

**Mrs O'Neill:** I have to go because I have another meeting at 4:30. Could I go back to the previous point, which was not as contentious? In looking at that again, I'm having a lot of trouble with the phrase "who can easily finance higher education." I don't think there are very many parents who can easily finance higher education. If you could help me with that, I'd like to say "who can contribute to the higher education of their dependent

members." It would be a lot more reasonable. I've educated, with my husband, three children; it's not easy. Could we say "who can contribute to the higher education"?

I'm sorry, I'm going to have to leave this debate because I have another meeting.

**The Chair:** I think Mr White has a good suggestion, and I want to give you one more possibility as we do that. But can we just deal with Mrs O'Neill's point, which seems to me is perhaps a good one?

**Mrs O'Neill:** I want to get the word "easily" out of there and not "finance higher education;" "who can contribute to the higher education of their dependent members."

**The Chair:** So that would read, "An approved means test should be retained so that families who can contribute to the higher education of their dependent members are not subsidized by the loan fund."

**Mrs O'Neill:** Thank you very much.

1640

**The Chair:** Before you go off on the five-minute break, can I throw out one more possibility? What if we were to put it this way: "The committee recommends that the ministry consider funding some pilot projects to assess the use of an income contingent repayment system. The principles of accessibility and affordability outlined above should be considered as essential criteria in the development and evaluation of these projects." That's essentially the change I am suggesting, that what the committee is recommending is that the ministry "consider" as opposed to "fund."

**Mr White:** Agreed.

**Mr Daigeler:** I can live with that. I doubt whether Dianne Cunningham can.

**Mr White:** We're resolved? There are no other outstanding issues and we have six minutes to go?

**The Chair:** No, we've got a little more than that. Is that all right, to try it that way?

**Mr White:** Yes.

**The Chair:** Okay, we'll try that. Ms Mathysen, in number 5 those would be principles that would—

**Mr White:** As we do have a very few minutes left, could we briefly review the changes that have been noted to these points?

**The Chair:** Remember, these will be done and there'll be a meeting of the subcommittee, so it's not the Chair who's running off to do that.

**Mr White:** Indeed. It's always best to inform our subcommittee member of what we've done in his absence, though.

**The Chair:** The first recommendation would be as it is. On the second, we have not done the wording, but we're going to put together what in effect would be three bullets—

**Ms Anderson:** Three examples.

**The Chair:** Three examples, if you like, phrased in a way that they're not limiting. Okay?

In recommendation 3, the first bullet, at the end of the first line we took out the word "material," so it was "Living

expenses, child care for single parents and extra costs for disabled students." And at the third bullet, "The student aid system should be based on all aspects of an individual's financial circumstances."

"4. The committee recommends that the ministry consider funding some pilot projects to assess the use of an income contingent repayment system. The principles of accessibility and affordability outlined above should be considered as essential criteria in the development and evaluation of these projects."

**Ms Anderson:** Then it continues.

**The Chair:** And then would continue, "Possible projects could address..."

Then number 5, the third bullet would read, "An improved means test should be retained so that families who can contribute to the higher education of their dependent members are not subsidized by the loan fund."

Again, these would come to the subcommittee tomorrow or Thursday, but as soon as possible, and that way everybody would get a chance to see them and would also allow for Mrs Cunningham to have input.

First of all, I need a motion to approve the body of the report.

**Mr Daigeler:** So moved.

**The Chair:** Mr Daigeler moves that we approve the body of the report.

Motion agreed to.

**The Chair:** Then a motion to approve the recommendations as amended, subject to review by the subcommittee and the Conservative members who are not with us today. If they can't agree with the amended recommendations they may then have the opportunity to file a dissenting report before the report is tabled in both languages. That's just a formality, but if they're going to do a minority report, they have to do it in both English and French. I need therefore a motion to approve the recommendations as amended, subject to review by the subcommittee.

**Mr White:** So moved.

**The Chair:** Thank you. Okay?

Then, as is the case in these 123s, is it the wish of the committee to request a response in the House from the minister pursuant to standing order 36(d), which of course we—it's the 180 days.

**Mr Daigeler:** Seeing we haven't heard from the minister at all, I certainly would welcome a response.

**The Chair:** This is a normal thing with the 123s.

**Mr White:** Perhaps that particular point could be discussed in the subcommittee and brought back at a later point.

**The Chair:** I'm instructed that we can't. This is the standard response for all the—I mean, the minister is free to respond in any way he or she wishes. They can simply say: "It's a very useful report. We're going to consider it." It's a pro forma thing. The other 123s I've been on have done this. It doesn't say what kind of response or how long or—

**Mr Daigeler:** It should be very positive and elaborate.

**The Chair:** All right. So that is carried, okay?

A reminder that if there are any subsequent dissenting opinions, those must be presented to the clerk in both languages.

**Mr White:** Is there a time for that presentation?

**The Chair:** If we meet tomorrow with the changed wording, if we get that approval tomorrow, then presumably there is no problem. But if there were going to be any kind of dissenting or minority report, we would want to get that as quickly as possible. I would think a week or something like that, okay?

**Mr White:** Certainly.

**The Chair:** Then tomorrow we will have a subcommittee meeting. I think we can get these changes together.

Just for Mr Martin's sake, Tony, we've made some changes to the wording. I explained at the beginning that Mrs Cunningham unfortunately had to have an operation. It's not serious; she will be with us. But I had agreed with the Conservative caucus that we would go through this today, try to come up with at least what we thought made sense, and give Mrs Cunningham an opportunity—I'm told she should be here tomorrow—to look at those changes. The subcommittee will get together. Either she will say "Fine," or if she has some suggestions to make, the subcommittee can consider those. If the subcommittee feels they are reasonable, we would then approve the recommendations as amended.

**Mr Daigeler:** And if not?

**The Chair:** And if not, she would then file a dissenting opinion.

**Mr Tony Martin (Sault Ste Marie):** Did you make any changes today to the proposed recommendations?

Interjections.

**The Chair:** We can let your members go over what we've done. We believe we have approved the recommendations.

1650

## COMMITTEE BUSINESS

**The Chair:** There are two matters which I need to bring to the committee's attention and which the clerk is going to pass out. The two things relate to our future work.

The first concerns the report of the subcommittee with respect to the issue of children's services, if I could read this report into the record.

"Report of the subcommittee:

"Your subcommittee met on Wednesday 6 May, Monday 25 May and Tuesday 2 June 1992, on a matter pursuant to standing order 106(a), and has agreed to recommend:

"That the committee conduct hearings relating to child protection, and specifically at-risk children. The hearings should focus on the population of children at risk, the services available to them, and recommendations to improve that continuum of services, from preventive programs to agencies of last resort;

"That the hearings take place the first two weeks of August and continue the first two weeks of September;



"That the committee sit on Mondays (2 pm only), Tuesdays, Wednesdays and Thursdays (10 am and 2 pm);

"That the committee conduct hearings in Toronto, Sault Ste Marie, Thunder Bay, Kingston and London;

"That each caucus submit to the clerk of the committee a list of individuals and groups for consideration by the subcommittee when establishing its list of those who will receive letters of invitation to appear before the committee;

"That appointments be scheduled to allow 15 minutes for individuals and 30 minutes for groups, and that the committee reserve the right to extend a maximum of four appointments to one hour each in length; and

"That the Chair inform the House leaders of the committee's wishes with regard to this subject matter."

Obviously the House leaders have the authority in the end to determine what we will or will not do, but this was the approach the subcommittee took and that's the report. Is there any discussion on the subcommittee report?

**Mr Martin:** Just for some on the committee who perhaps have seen this for the first time, I've spoken to the minister about it and she certainly sees it as something worth exploring and doing something around. The only hesitation, and it's a hesitation for me as well in light of what's transpiring here, is the time—the two weeks, four weeks, three weeks; some negotiated time—that would recognize both the reality of what transpires and then the need for the resources of the government and the Legislature to be used in a way that isn't going to burn anybody out or overburden the system unduly. We would probably want to talk a little more about the time and the actual dates perhaps.

**The Chair:** As to that last line, the House leaders are the ones who are going to determine whether we do this, whether we do it for four weeks or two weeks. This I suppose is really a kind of maximum proposal or wish list. What is perhaps unusual here is that we have taken the time to try to define a topic and suggest an approach, but I think we all quite understand and accept that the House leaders, once they see what the various order of business is for that period, may well come back and say, "That's fine, but it's two weeks" or whatever. I think that's quite understood.

**Mr White:** Along those lines, as a professional who has spent the better part of my adult life working with families and children at risk, I think four weeks is a totally inadequate amount of time, as an amount. The timing of course is problematical. There are a number of issues coming up, as we know, in September or August and of course we do want to start this after we have finished our spring session.

**The Chair:** The reason for the four weeks in August-September is that it's the intersession period. Again, the House leaders will take this under advisement, as they say. They may even say, "Go ahead and do two weeks and then when the House comes back you can spend one other week on it." I think this simply sets out a framework. You can't dictate to the House leaders, but that reflects the discussion.

**Mr Daigeler:** I certainly wouldn't want either the time or the dates changed in terms of the committee. As you

said, what the House leaders do with it is up to them, but in terms of the committee it's a serious issue, we want some serious study. We are aware of the limits of everyone, and I think the four weeks and the way it's put down here is a reasonable suggestion.

I have only one comment. Why did you choose Kingston? Not that I have anything against Kingston, but we usually go to these places and I was just wondering whether perhaps we might consider another city in eastern Ontario for a change, for example Pembroke. I've never been to any public hearings in Pembroke. To have the presence of the Legislature in a city I think is useful and important. Kingston obviously is relatively easily accessible from the Ottawa area and from other parts of eastern Ontario. Perhaps that's the main consideration, but if there's any possibility, I'd like to put in a pitch for Pembroke because I don't think we've ever gone to Pembroke, any kind of legislative committee.

**The Chair:** I'm trying to remember back to the subcommittee meeting because there were a few things. There was a reason we were suggesting the first two weeks in August and not the last two, which I think had to do with some members on the committee who weren't going to be around, and Kingston was trying to shift things around. Again, that was the conclusion of the subcommittee and the recommendation. I don't think this precludes—let's suppose the House leaders say to us, "You can have two weeks and then a week later." The subcommittee presumably would then sit down and ask whether we can do that within what we've recommended here, because that might then mean some other changes. I wonder if we can just take that under advisement, that there may be some others but that these were the ones that the subcommittee had suggested.

**Mr Gary Wilson:** I just want to say, with all due respect to my committee colleague—

**The Chair:** I should note for the record that the member for Kingston and The Islands is now—

**Mr Gary Wilson:** In fact, I would like maybe some precedent set by one of the other cities on the itinerary, say, in London. We could go to—

**Mr Brad Ward (Brantford):** Brantford.

**Mr Gary Wilson:** —one of the hinterland cities there. Yes, Brantford.

Interjections.

**The Chair:** I think the point, and it's a good one, is that we need to consider places where perhaps committees have not always gone, but ones that would still be accessible for people, in this case in eastern Ontario.

What we're proposing here is something a little different, where we're trying to set out as a committee an area of study and review that we all feel is important. We're all going to have to be talking with our House leaders, given other demands that may be on the system. I would suggest perhaps we let this go as the subcommittee has reported, and we'll see what happens once the House leaders meet.

**Mr Gary Wilson:** Just to make a serious point, though, I think because of the importance of the subject—I



guess all subjects are important—we want to make it as accessible as possible to the greatest number of people, and I think Kingston does make a lot of sense.

**The Chair:** Kingston in August I think sounds wonderful.

Could I have somebody just move the motion. Mr Wilson, thank you.

Just one other thing on our agenda, if I can find it.

You'll recall that in private members' hour last Thursday, Bill 24, An Act to amend the Education Act, projet de loi 24,

Loi modifiant la Loi sur l'éducation, which was presented by Mrs Caplan, was passed in the House and it was agreed in the House that that be referred to the standing committee on social development. That should be also placed with the subcommittee on business for us to determine when and how that would be dealt with. I just need to bring to the attention of the committee that that was the direction of the House last Thursday, so we will need to discuss that at the subcommittee on business.

The committee adjourned at 1701.









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- \*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)
  - Wilson, Jim (Simcoe West/-Ouest PC)
  - Witmer, Elizabeth (Waterloo North/-Nord PC)

#### Substitutions / Membres remplaçants:

- \*Caplan, Elinor (Oriole L) for Mrs Fawcett
- \*Ward, Brad (Brantford ND) for Mr Martin

\*In attendance / présents

#### Also taking part / Autres participants et participantes:

Martin, Tony (Sault Ste Marie ND)

Clerk / Greffière: Mellor, Lynn

Staff / Personnel: Anderson, Anne, research officer, Legislative Research Service



## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Wednesday 2 September 1992

### Standing committee on social development

Building Code Act, 1992

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Wednesday 2 September 1992

The committee met at 1412 in room 228.

### BUILDING CODE ACT, 1992

#### LOI DE 1992 SUR LE CODE DU BÂTIMENT

Consideration of Bill 112, An Act to revise the Building Code Act / Loi révisant la Loi sur le code du bâtiment.

**The Chair (Mr Charles Beer):** I now call to order the standing committee on social development. We're here to consider Bill 112, An Act to revise the Building Code Act.

Before we get into the substance of it, I wonder if I might, on behalf of all members of the committee, Margaret, extend through you to your son, Robert, our congratulations on winning a gold medal. I can't speak for everybody, but I know I watched not the live performance but certainly saw the rerun, and saw your son being interviewed several times. I think it made it all a little more special knowing that here was the son of one of our legislative colleagues. I know we had a chance before they went over to wish him well, but I just thought it would be fun today to say "Congratulations."

**Mrs Margaret Marland (Mississauga South):** Oh, dear. Thank you. I appreciate those comments very much, Mr Chairman, and Robert, if he were here, would tell you that they were very much aware of all the support for all the Olympic athletes that came from home, and the good wishes that were extended to him in the Legislature meant a great deal to him to have that kind of support. I just think it's so important as colleagues in the House that we do have opportunities for things that transcend our political caucus positions, and it has meant a great deal to me from all of you. Thank you very much.

**The Chair:** Well, it was a very exciting race.

**Mrs Marland:** I don't have any nails left.

**The Chair:** Our task, which is perhaps not quite as Olympian, this afternoon is to begin review of this bill. If I could just say, on your program for tomorrow there's been one cancellation. The organization that was to come at 3:30, the Toronto-Central Ontario Building and Construction Trades Council, has informed us today it will not be coming. We will do everything we can to move the group at 4 up, just to make our time a little more coherent, but they will not be coming.

This afternoon, as you can see from your schedule, we have two presentations, one by Margaret Harrington, the parliamentary assistant to the Minister of Housing, and the other by George Wildish, who's the special assistant to the director, Ontario buildings branch. I wonder if I might suggest that we have both those presentations and then reserve our questions until both are finished. That might be a more effective way to proceed, if that's agreeable with everyone.

I'd like to welcome the parliamentary assistant on September 2, on a day that looks like summer. I have to just mention that—got to get on the record somewhere that we didn't have summer but here we are. The fall is upon us and we're pleased you could be here, and if you would like to begin your presentation.

**Ms Margaret H. Harrington (Niagara Falls):** Thank you very much, Mr Chair and members of committee, for this opportunity to speak to you about Bill 112, which is now before this committee.

The reasons behind this initiative to revise the Building Code Act are quite straightforward. The Building Code Act that we have on the books today was introduced in 1974. In the nearly 20 years since the act was passed and especially in the nine years since the last amendment there has been a great deal of change in the building industry. These changes are reflected both provincially and worldwide. They include changes in building style, design and technology and also the introduction of new types of construction materials. They include changes in society's outlook, such as the need for resource and energy conservation.

In fact, these changes have spurred a new set of expectations from both the building industry and the public. For example, people want new buildings to be energy-efficient and builders want a flexibility to introduce less expensive, more efficient building materials. In short, the purpose of this act is to update and streamline the legislation, and it certainly has been requested by the industry for some time.

I would like to mention to you that when I sat on Niagara Falls city council I was on the BILDC, which is the building industry liaison development committee, consisting of city hall staff plus the lawyers, developers and construction trades people. They were trying to streamline the process at that point, and I can tell you, this building code update is most anxiously awaited by the city of Niagara Falls and its chief building official, Murray Johnston. He was very familiar with Bill 103, which is the predecessor of this bill, and he calls this the daughter of Bill 103. He called it the son of Bill 103, but I told him this was, in fact, the daughter of Bill 103.

I want to point out that this is what we call enabling legislation, which sets the framework for the building code of Ontario. As you can see here, we have the building code plus the guide to the building code. This legislation does not set the regulations in the code; these are set over time and also with consultation with all the stakeholders, and certainly you can be part of that process.

As members know, this bill received second reading on June 24. At that time the members brought up some valid concerns about one of the building regulations in particular that you may recall from that evening. It was the use of ungraded lumber for farm buildings. As I recall, it did go on for about two hours on that matter. Although strictly

speaking it is an issue for the code and not this bill, it is an important matter, so I would like to take a moment to update the committee.

In consultation with the Ministry of Agriculture and Food, we have clarified the provision in the building code concerning the use of ungraded lumber. Ungraded lumber will be permitted to be used for the construction of small farm buildings. There was a press release—I have a copy here—that went out at the end of July. I have notified opposition members who were most anxious about this in July, and they seemed pleased.

At the same time, with regard to this regulation, we are doing more to ensure that structural and fire safety standards are met for farm buildings. We provide courses in lumber grading for building officials, sawmill operators and rural residents. Finally, we are developing building code specifications for lumber sizes and spans specifically for farm buildings.

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The solution to the ungraded lumber issue illustrates our regulatory philosophy. We want to make things easier for people and promote economic activity. As well, we must ensure that construction in Ontario meets adequate health and safety standards and measures up in areas of energy efficiency and resource conservation. Examples of this, of course, that you've heard of are low-flow toilets and energy-efficient showerheads.

Bill 112 strives for a balance between the need for a regulatory system that ensures essential health and safety standards and the need to have a system responsive to today's values and technological capabilities. Such a balance requires more than purely preventive laws. There is a need to look at the future by maintaining our present built stock at today's standards.

This bill will establish that balance. It will enable the introduction of safe, innovative, cost-effective building materials and construction techniques. It will allow the use of less expensive, but safe, new building materials, thus encouraging competitiveness. It will place a much higher priority on energy efficiency and resource conservation. It will make possible the gradual development of uniform maintenance standards for our existing buildings, including our affordable rental units.

I would like to underline the objectives of promoting resource conservation and energy efficiency and ensuring good maintenance standards in our existing buildings. The existing built stock is certainly a major asset in our society. Its proper maintenance, preservation and safety, both for users and passersby, should be an important goal. Bill 112 addresses these concerns.

I thank Ms Poole. If I remember back to the night of June 24, she provided a thorough examination of the bill's main points during second reading, and I'd like to review those highlights for you.

First, the bill provides assistance to the building industry by enabling the acceleration of the building process. It will allow municipal officials to issue conditional building permits and ultimately this will benefit the consumers, both the home owners and the renters. This will allow preliminary construction to proceed as long as the zoning

and other critical approvals have been obtained. The remaining approvals must be obtained as construction proceeds.

Second, as part of our streamlining objective the plumbing code will be transferred from the Ontario Water Resources Act to the Building Code Act, and I think everyone realizes that plumbing is certainly part of building.

Third, the proposed changes enable the establishment of a comprehensive standard for existing buildings in such areas as maintenance and resource conservation. These standards will be developed—they are not now—over a period of time and in consultation with the key stakeholders.

Fourth, the bill will enable the chief building official of a municipality to permit the use of equivalent materials, techniques and construction systems which are not now authorized. Of course, these must have the same level of safety and performance as the materials, techniques and systems approved under the current building code.

Fifth, it will enable the Minister of Housing to issue rulings approving the use of innovative materials which have been evaluated by recognized institutions. An example of this is the Canadian Construction Materials Centre.

The sixth highlight is expanding the definition of "unsafe" to include situations where the public is put at risk. As the law now stands, for instance, a building inspector can't declare a building unsafe where pedestrians outside the building are in danger of being hit by something falling from the building.

Seventh, from the same safety point of view, the bill seeks to increase the powers of the chief building official to take immediate action to terminate a danger in an emergency situation.

Eighth, the bill will permit a building inspector to obtain a search warrant more easily and that is without the current requirement of an intention to seize evidence of an offence.

**Mrs Marland:** Excuse me, Mr Chairman.

**The Chair:** Yes, Mrs Marland?

**Mrs Marland:** It's difficult not being able to follow Ms Harrington. I can follow her beautifully audibly, but when it comes to making sensible comments or having questions, it's very difficult not having a copy in front of me of what it is you're reading.

**The Chair:** There are copies coming and I believe they will be here shortly.

**Mr David Tilson (Dufferin-Peel):** By the time the speech is over.

**Mrs Marland:** It's unusual that we wouldn't have them.

**The Chair:** I appreciate that.

**Mrs Marland:** Why don't we wait?

**Ms Harrington:** I'm almost finished. I had asked about that, whether there should be copies available to you.

**Mrs Marland:** What were you told?

**Ms Harrington:** I had thought it was part of the way things worked, actually. Maybe to help you out, on the inside—



**The Chair:** Here they are. Can we just pause then while the copies are—

**Ms Harrington:** The 10 points are on the inside cover of the bill, actually.

**Mrs Marland:** Okay. If I had known you were reading from that—

**The Chair:** We'll just take a moment.

**Ms Harrington:** I'm on page 14.

**The Chair:** We're on page 14, members. I think everyone now has a copy, so please continue.

**Ms Harrington:** I'll start at the top.

Eighth, the bill will permit a building inspector to obtain a search warrant without the current requirement of an intention to actually seize evidence of an offence. This will certainly be of help to inspectors.

Ninth—again a safety measure—a permit will have to be obtained to change the type of use of a building, even if no construction is proposed, if the change actually increases the hazard level. For example, if a house is converted to a restaurant, that often means installing potentially hazardous, large stoves and exhaust systems which may be very heavy and therefore affect the flooring and that type of thing.

Finally, this bill deals with enforcement of building code regulations.

It increases the fines for contravention of the act and code for the first time in 17 years. In the case of an individual, the maximum fine for a first offence rises to \$25,000 and for subsequent offences \$50,000. For corporations, the fines are significantly higher: \$50,000 for the first offence and \$100,000 for subsequent offences. Imprisonment as a penalty will be removed.

As my colleague Margaret Marland pointed out during our second reading debate, this is a great improvement over the current situation in which inadequate fines are regarded as part of the cost of doing business.

As I have said, this bill seeks to bring the building regulation system in line with today's realities. It addresses major concerns of the people directly involved with building standards. These people are the building industry professionals, the architects, engineers, contractors, interior designers, people in the building trades and builders and developers—and I should tell you I have met with most of the organizations representing these professionals—people who own buildings and people who work and live in them, the municipal building officials and councillors and other levels of government and regulatory agencies. There has been an extensive consultation process with these groups.

To summarize, Bill 112 will lead to a more efficient and streamlined building regulatory system, and the improvements contained in this legislation are a direct result of this process of discussion, and, as I mentioned before, also Bill 103.

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This legislation is part of a commitment to the use of innovative building materials and techniques to produce better buildings at less cost. It also aims to make housing more affordable to people by making the building industry more productive and more competitive.

This legislation is eagerly awaited. All parties, I believe, do not want to delay any further.

By its very nature, this bill has also to deal with technicalities. At this point, I am asking Mr George Wildish of the Ontario buildings branch to deal with some of the details of the technical aspects of the bill.

As I say in my little paper here, I would be happy to answer questions first, but it's up to you, Mr Chair.

**The Chair:** Thank you very much. We had asked, at the outset, if perhaps we would do both presentations and then deal with comments by the two critics and questions, and people had agreed to that. Therefore, I'd like to ask Mr Wildish if he would go forward with his presentation.

If I might, then, Ms Poole and Mrs Marland, when that is finished, I would turn to you first as the two critics for any comments and/or questions that you'd like to lead off with.

I believe everybody has a copy of his presentation? Okay? Fine.

**Mr George Wildish:** I'm going to ask Mahnaz Moosa to put slides on for me. I realize some of you can't see them, but I'm going to follow very closely to the printed text that you have in front of you. They're more like notes than slides.

**The Chair:** Is it significant that the government members are left in the dark?

**Mr Wildish:** No, sorry.

**Mrs Marland:** What was the point of setting it up like that?

**Mr Tilson:** To keep the government in the dark.

**The Chair:** We could probably turn it a little bit more, if you want.

**Mrs Marland:** It's fine for us but—

**The Chair:** How's that? Does that work for everybody?

**Ms Poole:** It still works for us.

**Mr Wildish:** These are more like notes than slides, so I hope you'll find them valuable when we're done. They're more like sentences than bullet-point words. Particularly in the middle there's a section that summarizes the content of the act, indicating where the various topics are found, by section number. I hope you may find that of value when we start into clause-by-clause.

The first page inside, and the next slide, is simply a little agenda of what I propose to do. You have this hand-out of the summary notes which you have in front of you now, a little introduction which I'm making at the moment. Then we'll go into what the building environment is today; what we see the future building environment to be like; the goals and objectives flowing from this act revision; the development of Bill 112, which we are looking at today; a summary of the act amendments contained in Bill 112; the bill highlights, and then questions. If that's all right, we'll just go right into that.

The next slide over, then, starts with today's building environment, and perhaps we'll set a bit of a background, a bit of a scene in which all of this developed. As you know, we've had two decades of very rapid and extensive

change and growth for Ontario's largest industry, the building industry. We have much more complex structures, larger projects for certain, new methods and materials every day, and—you can see the list—urban intensification pressures, which you're aware of, environmental concerns, which have become very important in these last few years, and resource conservation concerns such as fuel, electricity, water and construction materials. All of these will impact on codes of the future.

As you know, we have deteriorating existing building stock, and it's very important to us. Many of our high-rise structures built 30 years ago are now showing signs of wear in parking garages, balconies etc.

There are many economic/cost-saving pressures on us, and foreign competition is becoming very real for builders.

We have a change in the way we do things and the idea of mechanization. There are factory-built components and factory-built housing coming on the scene in a big way.

Certainly, there are related social issues like personal security and accessibility. I might say, on personal security, that I'm on a committee of the Association of Professional Engineers of Ontario and its job is to look at violence in the built environment. They're becoming aware of the need to protect people in our buildings, whether it's little niches where people can hide or poor lighting or whatever.

The next slide over is just a little crystal-balling here, looking at the future building environment. Perhaps you'll agree with me that some of these things are the way we're going. The next two decades will probably bring more changes than the last two. Resource scarcities will probably be upon us in terms of materials, energy and water, for example. We'll have environmental changes stemming from pollution, acid rain, ultraviolet radiation. Maybe we'll have to have shelters that go from building to building so we don't get burned with the sun. Flooding: If you're a Dr Suzuki fan, you may believe that 10 years from now we'll all be swimming here and we have no provisions for arks in our code at the moment. Global warming's the same thing.

Population concentrations: We certainly expect to have those coming on us in the future. Urban density pressures flow from those, and we know the problems they bring for buildings.

Impacts of infrastructure requirements: Infrastructure here of course means the sewers and roads and watermain that serve our buildings. They of course limit construction, and as construction goes in, it places pressures on the infrastructure.

Global competitiveness for builders, manufacturers and designers will get even worse, I'm sure.

We have "sick building" impacts. People know about that now, bad air in buildings, people going home sick, either outgassing of materials or just lack of oxygen, whatever. It's going to be a big problem. It's already a problem.

Accelerated deterioration of existing building stock: It will come on even more, I suspect, in the next 10 to 20 years.

There will be new regulatory responsibilities and methods that will arise from all this, I'm sure, which will affect everybody in the building world. Accountability and liability

issues in the built environment will become even more important. In the US now, hardly any large structure is ever built without it going to litigation and being tied up for months.

Further expansion and importance of Ontario's largest industry, as I mentioned before, the Ontario building industry: It is Ontario's largest industry. It's the economic driver for much of what we do and it's an employment generator of importance.

Clearly, we must be prepared then for a different world and different challenges, and it brings us to the next slide, which sets out the goal of what we're all about with this today.

Maybe I'll take a moment to read it slowly: to provide for a greater scope and flexibility—the new act provides for greater scope and it launches into some new areas, such as existing buildings, and flexibility certainly is built into it—in the regulatory process, including improved efficiency and effectiveness in administration of the act and enforcement of the regulations.

Those will be reflected in more detailed objectives you'll see sitting there, just below that: to make greater use of the building regulatory system to effectively and efficiently implement measures to deal with emerging social issues linked with construction, maintenance and use of the built environment; to preserve and protect our existing building stock, which I mentioned before; to facilitate building industry efficiency and competitiveness; to facilitate innovation in design, materials, manufacturing and construction; to enhance health and safety standards; to streamline the building regulatory system, including its enforcement procedures.

We are well aware that in meeting these objectives we must consider many of the competing interests that abound here.

We must restore and maintain a critical balance, as Mrs Harrington has mentioned to you. There is certainly a balance to be struck between the wishes and needs of the public, consumers and users of our as-built environment. Builders, manufacturers and designers have other interests, the municipal government certainly has some interests and the Ontario government has some interests. Achieving the right balance requires a careful assessment of technical, economic and social needs, and we must always keep in mind the balance between each person's freedom to build against the overarching needs of society.

We require an effective partnership with industry, users and regulators, and this includes the private sector, in which we're well aware there are many organizations, such as the standards groups like CSA, the Canadian General Standards Board and the American Society for Testing and Materials that produce standards governing construction. We in the building code area draw on those very heavily.

Of course, this involves full and effective consultation at all stages, to which Mrs Harrington made mention, and we're certainly committed to that. We need built-in sensitivity and flexibility in the future to deal with this exploding world, and we have to provide, of course, for rapid and effective change and action.



That brings us to Bill 112 and its history. I'll just run quickly through that.

Bill 112, in the next slide, was introduced. It's An Act to revise the Building Code Act and it's part of a long-going regulatory reform program we've had in the Ontario buildings branch for the last 10 years. The current building code was introduced in 1974, with a few minor amendments since then, the most recent in 1983 to facilitate the renovation of residential buildings.

#### 1440

Under Bill 112 the basic structure and organization of the act remains about the same, but it's extensively amended. I guess every page is changed, but many characteristics are continued from Bill 112.

There's a general safety and health orientation, of course, which remains. It governs new construction, and I've noted there it's permit-triggered. As you know, when you're doing new construction, that's how the whole process is started. It's by someone applying for a permit. As you know, it's enforced by municipalities, except for unorganized territory, which is the duty of the province to look after. There's a preliminary plans review in municipalities. The municipality approves the plans when they're correct and issues a permit, and it follows up with onsite inspections to make sure the code is met and the plans are followed.

There are two appeal bodies, two commissions: the Building Code Commission, where disputes between a permit holder and a building official may be taken, and a Building Materials Evaluation Commission, which can approve new products, materials and so on that are not already mentioned in the code.

There are some new characteristics built into Bill 112, and of course I mentioned that it governs existing buildings and integrates the plumbing code, as two major examples. Bill 112 has been developed over several years and it supersedes Bill 103, which was introduced a couple of years ago.

Extensive consultation has taken place with stakeholder groups. Mrs Harrington has alluded to those, and some are listed here for you, and there are, of course, more than these: builders, consumers, developers, designers, regulators, labour organizations, building owners, environmentalists, the legal profession etc. We've had a very long and open discussion with the building world.

The parliamentary assistant's consultations were in February and March 1991. The first reading of the bill was May 28, 1991; the second reading, June 24, 1992; to this committee, of course, September. All the way through we have had to make note and assure people that there will be a number of amendment proposals and that they'll be developed through regulations, and the interest groups have been assured that they will be consulted in developing the regulations.

The next three pages, which I'm not going to read in detail to you, are a summary of the proposed amendments. I put in here most everything of substance, and several things of not so much substance, and I've put with them the subsection number so that you can find them. If you want to use this later on to get a grasp of what this bill is

all about, you can go down that list and look up anything that is of interest to you.

I'm going to deal with only about 10 or 11 of these items this afternoon. You may have questions on some others, and of course we'll answer those, or others will be dealt with in the clause-by-clause discussion. On here, there are only two that don't have a reference number. They're at the bottom of the page and they are repeals: repeal of confidentiality requirements and repeal of non-compellable witness status. Of course, there's no section number, because they're not in the code.

I'm going to turn these next three or four pages. They're there, as I say, for your reference and, I hope, to help you in dealing with this bill, which takes us over to standards for existing buildings, which is the first item I want to highlight. I'm pretty well going to follow, maybe exactly follow, the listing that Mrs Harrington has issued.

First, standards for existing buildings: This is an innovation for the building code. As you know, the current act governs new construction, demolition and material alterations, repairs and renovation in existing buildings that are initiated by the owner. That's the key thing: initiated by the owner and new construction. It does not deal with maintenance or occupancy of existing buildings unless a building becomes so bad in its condition that it becomes unsafe, in which case the building official may take action. Otherwise, it doesn't deal with existing buildings.

Other standards governing existing buildings are fragmented over several ministries in the government—for example, property standards under the Planning Act. The fire code deals with certain things, as you know. Other acts, elevators and so on, have requirements of how things shall be maintained.

The result is fragmentation, and as we had with the new construction regulations some years ago, before we started on regulatory reform, there are gaps and overlaps and contradictions between this legislation. It's not coordinated for policy development as well as it might be. It's inconsistent standards across Ontario, inconsistent enforcement across Ontario.

The establishment and enforcement of standards for existing buildings is becoming increasingly important for the building industry and for consumers as well. New construction, as you know, represents only a small percentage of the total building stock. The great bulk of our buildings have been up for some time and will continue to be the main part of our building empire. So looking after existing buildings is important.

The existing buildings that I mentioned earlier on are deteriorating very rapidly. Three quarters of the housing stock was built prior to 1976, which gives you some indication of age.

Major problem areas, of course, are often cited these days. Parking structures are a common one you hear of, where the reinforcing steel is being eroded by salt. They're becoming a multimillion-dollar problem for us here, especially around the Toronto area.

It's the same story for balconies in apartment buildings. Reinforcing steel is being eroded by salt. Exterior cladding is a problem. It tends to spall off. Heating plants



are aging. Roofs are another problem, because the roofing technology perhaps wasn't what it ought to be.

Maintenance of the existing stock then is a priority. The establishment of efficient, preventive maintenance programs by building owners seems economically essential.

Establishment of existing building standards is also an effective way of addressing many of the emerging building-related social issues that are coming upon us. I've just listed a few there: pollution control; global warming—again, we're going to have some problems to deal with in this area; resource conservation; energy; water, as I mentioned before; personal security, and rental standards.

The need for appropriate socially, technically and economically viable building standards is clear. It involves consolidation of the fragmented legislation, its rationalization and streamlining. This refers again to taking all these fragmented pieces of legislation that we have in the government—they're scattered through various pieces of legislation—bringing them together and trying to sort them out, rationalize them and streamline the whole process. Development of this process is provided in Bill 112.

The provision of enforcement mechanisms for these standards will require careful review of several matters, and I've listed just a few here. You can imagine that when it comes to dealing with existing buildings, the powers of entry may be different than those for new construction. Certainly, the fines may be different and the orders to be issued, the regulatory commissions required and many other things may be different.

It's a two-barrelled approach we have to take here: first, develop the standards, and while that's going on, I suppose, develop the enforcement mechanisms. All of that will create quite a lot of consultation with stakeholder groups. Both standards and enforcement provisions will be involved.

I think I'd like to move on to the next one: bringing the plumbing code into the building code. The plumbing regulations were provided under the Public Health Act in 1952. Later on, the plumbing code was provided for in the Ontario Water Resources Act, 1957, but administered by the Ministry of Housing, and that's the way it's been for some time now.

The consolidation and streamlining program which the government has had deals with consolidation into the building code of various acts, so it's natural that the plumbing code should be brought in. In doing so, we'd make the administration of plumbing congruent with that of the building code material. To do that, it would require that we revise the definition of "building" to include plumbing. So some of the changes you'll see are in the form of the act and involve those definition problems.

The building code will provide enhanced enforcement powers not in the OWRA. Plumbing inspection then picks up a few things it doesn't have now, and I've listed three or four of them there that it doesn't now have: stop-work orders, restraining orders, unsafe provisions and emergency provisions. None of those things are now available to plumbing inspectors, so they do make some gains in joining the building code team.

There are also building code amendments to allow continued enforcement and delegation to local boards of health, counties etc. You may be aware that much of our plumbing inspection is done by local boards of health, and we make provision for that to continue. Where there's delegation to a board of health or a county, the inspector has all the unique powers of a chief municipal building official except those relating to conditional permits, about which we'll talk some more.

New local plumbing bylaws are desirable but not necessary, because a lot of them could be grandfathered in under the Interpretation Act. That's all I will say on the plumbing part. It's fairly straightforward as a change for us.

The next one is conditional permits. This is something that has received a great deal of interest in the past. I'll run through a few of the highlights. As you know, a building permit must be issued if the applicant's plans show it will comply with all applicable law. Of course, that's the duty of the building inspector or plans reviewer, to look at what's proposed and see if everything is all right, and if it's all right he's obliged to issue a permit.

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The current act also provides for permits for portions of a building, so an applicant could come in and ask for a permit for his foundation, if that is all he has ready, and as long as everything proposed and the foundation plans meet all applicable law, then the building official will give him a permit for that part of the building. But it's clear that he must meet all applicable law for that part.

In the last few years we've sometimes had a great deal of pressure on the building industry. People wanted to build in a hurry. They wanted to get things going. They wanted to open a new shopping centre to take advantage of a Christmas sale by a certain time or they wanted to get some building going before some important construction material left the area and went back to wherever it came from and so on. There was no way to speed up the approval process for some of these projects, so the concept of conditional permits emerged.

It was simply that if an applicant was very sure he was going to get his permit because he knew he was going to do whatever was required to get it—maybe adjust his site plan, maybe adjust his water or sewer requirements or whatever—he could make an arrangement, a deal, a contract, if you will, with the chief building official which said: "Give me an advance permit. I'd like to start work three months in advance. I will get all my other approvals in the next three or four months. I will meet all applicable laws. If I do not meet all applicable laws, then I will tear the building down or I'll restore that part. I will do whatever to make things right." People would not enter such a contract without being very sure of their ground and committed to what they were going to do.

This is the idea of conditional permits then. It allows the chief building official to assess a situation. If unreasonable delay is going to occur if it's not granted, then he can see himself clear to giving a conditional permit. He is the only person who has the right to make that decision and it is not appealable to anyone else. It's at the complete

discretion of the building official, as it says here on the slide. The applicant must meet the chief building official's conditions and the applicant takes full responsibility for everything there.

The next slide shows it could be that the building official will ask for financial security. Some kind of bond may be posted and the agreement may be registered against the land. As it says, the applicant must remove the building and restore the site if the agreement is not filled. Should that not happen, should the contract not be fulfilled, provision is made for the chief building official and his or her agents to enter the building and take the remedial action, which might be to tear down the wall or demolish whatever to restore something, as required. Should that happen, the municipality will incur costs. Provision is made for the municipality to put a lien on the land to recover those costs in the form of taxes. I have listed a couple of examples where this process might be used: Site plan approvals is one and 30-day appeal periods for committee of adjustment hearings is another.

The next highlight I want to touch on is acceptance of equivalents. Of course, this is put in the regulations to streamline the process to allow building officials to accept designs, parts, materials or whatever that fully meet the design performance requirements in the code, but they're a little bit different than what is set down in the code now. So when an applicant proposes something a little different, if it meets all performance requirements, the official, if he is satisfied by receiving lab tests or examples of past performance where it has worked very well and he's satisfied with it all, may put that in his file and may grant the applicant freedom to use that.

Under the building code right now, we have something called renovation provisions. That does provide for what are called compliance alternatives and alternative measures, and these measures may be a bit less than the current code standards but not less than the existing building. If it's an existing old building that perhaps can't meet the current level the code requires, the building official has a little leeway there and can grant a slightly lower performance level, but he cannot go below what the existing building was built to in the first place, so we're not having a lowering below safe standards.

The national building code has always had this provision. They wanted the code to be recommended practice and not to tie people so they couldn't have any freedom to build and to move. This flexibility has been there. Many provinces adopt the national building code just as it is—about four of them do that—and there's been no trouble with such a provision in the past.

As mentioned towards the end of that slide, the chief building official is free to ask for engineers' reports, lab tests and so on. This will of course be helpful in approving innovative housing forms and promoting intensification and general industry innovation, and will facilitate construction in general.

I'd like to move to the next slide, which is approval of innovative materials: Again, same story, but in this case by the CCMC, the Canadian Construction Materials Centre. Mrs Harrington mentioned this one as well. In the past it's

been that someone who wanted to use a new product or material in Ontario had to go to the BMEC, the Building Materials Evaluation Commission, and get approval of that. The applicant also had to go to a similar body in every other province. That meant 10 trips if you wanted to sell or use the product Canada-wide.

We've had an innovative program going the last number of years to try and make building regulation across Canada streamlined and uniform, and one of the ways of doing that is, of course, to make our codes the same. We're making great strides towards doing that. The codes are becoming very close to being the same.

Another way is to have common approval of new products, and so established at the National Research Council is a new testing evaluation body. This body will do the testing for all of Canada and the provinces will receive those test results and are committed, more or less, to accepting, hopefully, 99% of them and adopting them in the provinces. To do that, the minister makes a ruling accepting it and that becomes the equivalent of a regulation. It's not a regulation because it doesn't go through regs committee, but it's the equivalent of regulation and may be used in the province once it's been gazetted.

The next one is the expanded definition of "unsafe," which Mrs Harrington also talked about. The current act does not address maintenance standards for existing buildings unless the buildings are unsafe, as I mentioned earlier. The inspector may order an owner of an unsafe building to take remedial steps including vacating the building, but the current definition of "unsafe" relates to two items, two topics I've shown there: structural inadequacies or faults of a building with respect to the purpose for which it is currently used, and hazards to the health and safety of persons who are legitimately inside a building and make use of it in a normal way.

There are a few things it doesn't do for us and I've listed three of them there. The current act does not refer to persons outside the building who could be harmed, I would say, for example, by material falling from the building on them. Mrs Harrington touched on that. It does not refer to the potential damage to neighbouring buildings or land that could be harmed by something falling from one building in bad shape on to a neighbouring property. It does not refer to a hazardous building which has been vacated but which has not been suitably barricaded to prevent persons entering.

This deals with a problem we have certainly in large cities where buildings are sometimes vacated, abandoned, but the owner—of course the use, by the way, of that abandoned building is nothing and so the building is safe in the sense that there's nothing going on in it. However, if it's not properly barricaded, someone could go into the building and therefore it becomes unsafe. This would provide that a building that's in bad condition that is not properly barricaded to prevent somebody from entering can be classified as unsafe. Those kinds of provisions are added into the act.

The next slide over is powers in emergency situations. Most of this material is similar to what's found in the Planning Act and has been moved into the buildings act



where it can be used by building officials. The current act provides for entry to buildings, excepting buildings actually used as dwellings, to determine whether they are unsafe. Consent or a warrant is required, of course, for entry to dwellings.

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There are certain emergency situations that arise requiring this immediate entry, and I've listed two there. If we had an earthquake or a fire or whatever of that kind and the building official arrived on the scene and he had no time to go and get a warrant, then he is authorized under the act to enter that building to see what the condition is and if any remedial action has to be taken.

Having found out that it's a bad condition and that remedial action is required, he may then make an order to deal with the emergency, perhaps ordering evacuation, perhaps ordering some demolition and so on. He can go in and start taking that action, again without a warrant, and that's the second provision there.

As it says here, the bill then proposes warrantless entry in these circumstances. If, by inspecting a building from the inside, or just from the outside he can see the damage from the outside, the inspector determines that an emergency exists, he may do the following: He may make an order about terminating it. He may take remedial action before serving the order if he needs to. In this case, he must serve the order on the owner and other people in this category as soon as possible. That serving of the order would include what was to be done, of course, and the estimate of the cost of the work. He then may enter the dwelling without the warrant.

He must apply to a judge for confirmation of the order later on to make sure the judge will confirm that he was right in entering the building and that the costs that were expended can be claimed against the building. As noted on the bottom of the slide, this may be recovered as a lien on the land and recovered as taxes.

The next highlight I want to touch on is rights of entry and warrants. Under the current act, no entry is allowed into an occupied dwelling without consent or a warrant. The warrant under the Provincial Offences Act requires seizure. What this means is that because it came from the criminal law, they're usually wanting to seize something. So the point was that to get a warrant to enter, you have to have in mind that you're going to seize something and take it away before a judge has evidence of an offence. A building official seldom wants to seize anything to take before a judge and therefore it's very difficult to get a search warrant. This change to the bill removes that seizure requirement, which will make it much easier for building officials to enter a building.

It does one other thing: It provides for the search warrant under the Building Code Act instead of under the Provincial Offences Act. But the warrant provisions are essentially the same as under the Provincial Offences Act, excepting for the seizure part of it. The Ministry of the Attorney General has been involved in the development of this and the act, as written now, in the proposal, reflects his input. Also, if you'll notice there, it calls for reasonable times for entry with the warrant.

Permit for change of use is the next one. In the past, of course, and up to the current time, permits were given out for new construction. When the plans are being assessed, naturally the building official looks at what is proposed to be done in the building, what kind of work will be carried on or what kind of activity will be carried on there; in other words, what use will be made of it.

Later on, if the building is proposed to be changed and construction proposed, the applicant is required to come in for a building permit for that construction. But if the applicant later on decides really to change the use of the building and does not propose to do any construction, then he or she probably would not apply for a permit. Hence, a building could change to a new use, the new use could be very hazardous, the building could become hazardous and no one would know anything about it until it was perhaps picked up on a property standards inspection or a fire staff inspection.

This change then puts an onus on an owner. When he proposes to change the use of the building and a greater hazard will be involved in the new use, then he must apply for a permit, so we call it a change-of-use permit. It's similar to an automobile certificate of worthiness. In some states in the United States, for example, whenever you sell your building or lease it, ending with a change of ownership, they require an assessment of the building and a permit to make sure that it's in good condition, the same as selling an automobile.

To ensure safety, the permit would be required when changing "use" as defined in the code—so "use" has to be defined—and when increasing "hazard" as defined in the code. This would not be retroactive. I stress "not retroactive," but it would ensure that new accessory apartments and other occupancies will be safe.

The change of use, I stress here, may involve a change of major occupancy, which is a term used in the building code to define the kind of occupancy and use that's taking place there and addition of a separate dwelling unit. Those are two that might be in the final regulations. These regulations are under development, as I stated there, and as you can see, they are closely tied to renovation requirements that exist in the code already and to existing building requirements, which will be under development.

This brings us to change in penalties. There is a very large increase in fines, as has been pointed out already by Mrs Poole in her remarks, I believe. The fines and penalties in the act haven't been changed since 1975. There have been many years of inflation and industry is much more complex in many ways now than it was at that time. There is great increase in scope and impact, as you know, and so the existing penalties are not really effective.

At present, they are set out there: individuals, \$2000 fine and/or imprisonment for one year and no increase in the fine for a subsequent offence; corporations, \$10,000 fine and no increase for a subsequent offence; a continuing offence, an additional fine of \$100 per day. The courts traditionally have offered very small fines. The small fines have been regarded as a licence to break the law, in fact, by many builders. Appropriately high minimum fines are not prescribed, because there are occasions when small



finances are warranted and a judge just wants to award a fine of \$100 or \$50. So the courts also have not used the imprisonment penalty.

What's proposed is to put in some fines that may act as a deterrent and they're shown on the next slide. For individuals, they have gone up to a \$25,000 fine for a first offence, a \$50,000 fine for a subsequent offence and imprisonment is removed; corporations, \$50,000 fine for the first offence, \$100,000 fine for a subsequent offence and there is no imprisonment; continuing offence, additional fine of \$10,000 per day after date set for compliance.

"Offence" is defined as "subsequent" if there has been a previous conviction under this act. These changes are in line with the recent Provincial Penalties Adjustment Act and, for example, the Fire Marshals Act, the Gasoline Handling Act and the Ontario Water Resources Act. All have similar fine levels, as set down there.

Finally, I want to bring one more to your attention. This is a matter that has caused some confusion in the past. We hope to remove it in the act with this change. The act requires a builder to build according to the permit plans and specifications, or if he wants to change it, he has the changes approved by the chief building official.

It's an offence in the current act not to build according to the code, so there's a little bit of confusion here as to which has priority. Does the code have priority or do the approved plans have priority? The question being, what if the approved plans don't conform to the code because of some error or whatever?

This change would clarify that the act and the code are supreme. The builder must build in accordance with the act, code and the permit plans and the onus is on the builder to rationalize the situation. In effect, what happens is that if the owner becomes aware or he's told that the building that's going up does not meet the code, but it is according to his plans, he will have to take the plans with the changes to the chief building official, have the changes approved so it now conforms with the code and the building goes up meeting the code.

I think that's the end of what I'd like to remark on and, of course, entertain any questions anyone might like to bring.

**The Chair:** Thank you very much, Mr Wildish, for that extensive summary of the act and also for the references in the middle of your presentation, which I'm sure will be very useful to members of the committee. I'd now like to ask the two critics if they have some comments and/or questions to make and we'll begin with Ms. Poole.

**Ms Dianne Poole (Eglinton):** Thank you, Mr Chair. I have a few fairly brief comments and then I wondered how you would like to handle it. Should I make some comments, Mrs Marland do the same and then revert to questions by the group after that?

**The Chair:** A good point. I might just ask Mrs Marland, how would you like to go at it? Do you have some opening comments you wanted to make before getting into questions?

**Mrs Marland:** Yes. They're quite minimal at this point.

**The Chair:** All right. Well then, why don't we have Ms Poole make her comments, you make yours and then we can go to questions?

**Mrs Marland:** That's great with me. I just wanted to make one other suggestion, if Ms Poole and Ms Harrington would agree to it.

**The Chair:** Please.

1510

**Mrs Marland:** I notice that before we start clause-by-clause, there is another time when you're speaking. Ms Harrington is on the agenda on the morning of the 14th, and I'm sure that Ms Harrington isn't going to speak for an hour at that point—I'm glad I told you. You now know you are going to speak then.

**Ms Harrington:** Not for an hour.

**Mrs Marland:** No, that's what I thought when I saw it. The thing is at that point we will all have had the benefit of the input of the deputations, so it may be that, speaking for myself anyway, I would like an opportunity to speak then too, after hearing the deputations, because although we may or may not have amendments, there may be things we would like to get on the record just in a global form.

**The Chair:** Yes, I'm sure we can do that at the opening.

**Mrs Marland:** Thank you.

**The Chair:** And the same would apply to Ms Poole, and then we can get into the clause-by-clause. Okay?

**Mrs Marland:** Yes.

**The Chair:** Then we'll proceed, Ms Poole.

**Ms Poole:** I'd like to thank the parliamentary assistant for her comments and Mr Wildish for his very comprehensive analysis, which I'm sure will be very helpful to us as we go through not only the public hearings tomorrow, or the hearings by invitation, I guess they would be more aptly called, but also as we go through the clause-by-clause.

I think it is very fair to say that there's been quite a positive reaction to the legislation by most of the interest groups, whether they be in the industry or indeed consumer groups, and when you look at what the amendment to the building code is proposing to do, you can see why. It includes things such as new materials and innovative technologies and services which obviously have not been in the code since it was last amended nine years ago. It's also going to enhance safety standards, it's going to streamline and, as Mrs Harrington said, it's going to promote economic activity. I think those are changes that are all quite welcome.

I mentioned that it was last amended nine years ago, but I think there have been several references to the fact that new legislation was introduced in 1989 which unfortunately, due to events in September of 1990, didn't quite make it through. This is very similar in a number of areas. There are some differences which I would hope to have an opportunity to ask either the parliamentary assistant or Mr Wildish about.

I've said some fairly positive things about the legislation, but as always, of course, legislation is never perfect and as opposition critic I do have to pick out a few things

we would like to not only ask questions about but bring forward as issues that interest groups have raised with us.

The first was the ungraded lumber issue, particularly with the small farm buildings, and I'm very delighted to hear from the parliamentary assistant confirmation that indeed the regulation will be changed to continue to exempt those farm buildings. It was certainly quite a storm of controversy aroused by this particular regulation, and I think quite unanticipated, so I think there will be a number of municipalities where they will be very happy to hear that news.

The second contentious issue is that the amendments are going to bring existing buildings under the act. Now, as Mr Wildish pointed out in his notes—and I probably could never find it again, but it is in there somewhere—the current act does not provide mandatory standards for maintenance or occupancy of existing buildings unless the building becomes unsafe. What we don't know at this particular stage are the details of how this is going to be enforced—for instance, how the determination is going to be as to what is unsafe.

Although I think most of us are very pleased that existing buildings will be brought up to code, the other problematic feature, particularly with rental buildings, is that you have a catch-22 situation. On the one hand, if a building is deemed to be unsafe and has to have changes made to fit the new building code, it can be fairly expensive, particularly, as Mr Wildish said, if you get into underground parking restorations and that type of thing. On the other hand, we have quite restrictive rent control legislation where in certain instances the rents could not cover the expenditures. So the landlord may be in the position where he doesn't have the money to do it and yet faces a rent penalty because he didn't have the money to bring the building up to code.

It's that kind of conundrum that I think we're going to have to work with, and I've heard a number of groups express a concern about this particular aspect of it.

The third thing I wanted to mention was that in the legislation introduced by the Liberals there was a provision about the certified professional program, and this has not appeared in the revised legislation. One of the questions I would like to ask both the parliamentary assistant and Mr Wildish is why it was not included.

Under the certified professional program, the idea was that certain private-sector professionals—for instance, architects and engineers—might be specially qualified as being capable of certifying that plans complied with the Ontario Building Code. There were a number of very appealing things about that concept. Municipalities always have a great deal of difficulty meeting the high-volume rush periods, and if you had certified professionals who could take part of that load, I think it would certainly help streamline it and make sure that there aren't backlogs and that type of thing. Perhaps one of the questions we can ask later on will relate to that and why it was dropped.

Another item that was dropped—this refers to deleting certain wording regarding the warrant to enter and inspect. Originally, it included wording about the warrant to enter and inspect. Now it just talks about the search warrant,

which is a different aspect of it. A number of people from municipalities have commented to me that they're quite concerned and that they liked the original wording, that it gave them much more power as far as entering and ensuring that things were done properly. Perhaps that's another area where we could ask some questions, and maybe our witnesses tomorrow might be able to elaborate on that.

One matter brought forward by the Urban Development Institute of Ontario was the matter of the conditional permits, and Mr Wildish referred to that in his remarks. I guess their major concern is that because "unreasonable delay" is not defined, various municipalities would have all sorts of different ways of enforcing that, and they were afraid it would become the rule rather than the exception to have conditional permits. Maybe we could have that elaborated upon as well.

A brief point is whether 20 days for appeal is adequate, particularly because quite often the municipal department is negotiating with the builder at the time the decision is made and that 20-day period simply may not be extensive enough.

Just two last very brief points. I think it's very positive that we're consolidating the standards, but I think it's very important that these standards supersede local bylaws regarding maintenance, occupancy and repair. You certainly don't want the situation where you have inconsistencies and chaos where you've got the Ontario Building Code saying one thing and the municipalities having their own local bylaws that contradict it. That's the type of thing that's quite important.

A final point. The meat of the Ontario Building Code is, of course, the regulations. Because they are, I understand, not quite ready, we were not able to have an opportunity to hear witnesses' comments on the regulations and whether there are things that should be changed in those particular aspects.

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I do hope the ministry perhaps will provide us with some sort of guarantee that it will be sending the final regulations out to various groups in the industry and consumer groups and very carefully considering their input, because, really, that's their only opportunity. Regulations are passed in camera by the cabinet and rarely do people really have a lot of input, so since we're not able to bring them to this committee, I do hope, since the Ontario Building Code is extremely important, the ministry will undertake to make sure there's adequate consultation.

Thank you, Mr Chair. This was much briefer than my one-hour-and-15-minute speech on second reading, so I've consolidated some of my comments.

**The Chair:** It shows what happens when we get into September.

**Ms Poole:** You get tired.

**The Chair:** Ms Marland, would you like to make your opening remarks?

**Mrs Marland:** Thank you, Mr Chairman. It's a disadvantage to speak second when the issues are the same for both critics in general.



Frankly, with the development of new materials being as extensive and as rapid as it has been in the last decade, I don't think that to amend a building code once in nine years is sufficient. I think that in order to save the people who build buildings and the people who subsequently buy buildings money, a building code should be routinely amended to address improvements that are available and yet could be contained within the building code of a province. I hope it won't take another nine years to take an in-depth look at the Ontario Building Code, and I point out that it's seven years since the Ontario Progressive Conservative government was responsible for the Ontario Building Code.

Obviously, some of the areas of concern are quite straightforward and quite easy to identify. First of all, I want to say the parts of the bill that I am particularly pleased about.

I think the eighth—are these sections? I'm not sure how you're referring to these.

**Ms Harrington:** Highlights of the bill.

**Mrs Marland:** Highlights, okay. The eighth highlight then, which permits a building inspector to obtain a search warrant without the current requirement of intention to seize evidence of an offence: This particular aspect of the bill is something we have been looking for, certainly in my municipality, for some years, mainly because—and this is going to become accelerated under the current socialist government's policy for intensification—we have been very concerned about how single-family homes in particular have been made into rooming houses by dividing a living room and a dining room into sometimes as many as four individual, separate rooms, and basements have been subdivided unmercifully into rooms that have been rented, all in a single-family-home zoning.

I recognize that the current government in Ontario doesn't agree with single-family-home zoning, because in spite of the fact that it has John Sewell riding around the province reviewing the Planning Act, at the same time we have the Minister of Housing throwing the Planning Act out the window by telling the people of this province that, as of right, they can build an accessory apartment or create an additional dwelling unit within their existing dwelling unit.

The Planning Act is related to the building code because, in my opinion, what we have happening today in Ontario is the demise of the future of all land use and buildings on land. We are eliminating the protection the public has had all along in terms of land use planning.

Actually, in the city of Mississauga and in my own riding, we have had examples where we wished we'd had the power under the building code, to go in and take evidence, whether it's with a camera or with a tape measure or with a couple of witnesses, without actually taking anything out of the house. We have wished we had the ability to seize evidence in some form to deal with the disgusting situation we've had, which has been a form of intensification in existing single-family homes.

This current socialist government wishes to intensify single-family home dwelling units, and that was a direc-

tion that was introduced by Chaviva Hošek when she was Minister of Housing for the former Liberal government. The direction at that time was the same as the direction supported by the current government, which was, as I mentioned a few moments ago, the addition of granny flats, an additional dwelling unit, within a single-family unit.

That's now going to be legislated this fall, according to the Housing minister. She tells us she's going to bring in the legislation this fall because, even though the Liberal government brought it in as a Housing policy statement, it hasn't happened because municipalities simply have said no. So now we're going to have it legislated this fall that citizens, as of right, may do these things.

We don't know what percentage of citizens will go to city hall and ask for a building permit to do it, so we will always have a percentage of citizens who will make these adjustments to their homes on their own and therefore, if they do not meet the building code requirements, possibly put the people who live in these additional dwelling units at risk.

That is why, to use the parliamentary assistant's term, highlight 8 is a very important aspect of this bill that we're very happy to see at this point because of the fact that we're going to have this form of intensification across the province. Even without it being legislated, in our experience in Mississauga, we have had horrific and disgusting situations of single-family homes being carved up into rooming houses which in fact have been completely unsafe and completely contravening the Ontario fire marshal's code and the Ontario Building Code. So we are very happy to see the point made under highlight 8 for that reason.

As the parliamentary assistant has said, we are also very happy to see the increase in fines for violations of the building code regulations. To tell you the truth, we would have been quite happy to see that maximum fine for the first offence higher than \$25,000, because it's all relative. When I said at second reading that the builders see it as a cost of doing business, that's exactly what happens.

We have builders in the city of Mississauga, in fact in my riding, who have been fined a number of times, and here you see the subsequent offences are going to be \$50,000. If they're building a \$1.5-million house, they don't care. They don't care that they build a house that costs that much money and has never had a building inspector at the door because they're building it without a permit. They turn around and an equally unscrupulous realtor, in my opinion, puts it on the market and sells it to some unsuspecting individual who spends \$1 million. I could take you now to two that were \$1.7 million. It doesn't really matter whether it's a \$150,000 home or multiples of millions of dollars; the fact is that purchaser needs to have the protection of knowing that the building met the building code.

1530

The developers and builders together who have ignored the requirements of the Ontario Building Code as it exists today are outright crooks, as far as I'm concerned. We should have been able to penalize them drastically enough that it wasn't worth their while to be taken into court and



be fined because it was such a penalty that it was punitive in its result.

So yes, I'm happy to see the first offence go to \$25,000 and subsequent offences go to \$50,000 but, frankly, I think on the really expensive homes we may well see some developers and builders who choose to ignore it even so because on a percentage cost of the overall building, if they can get that building built and up and sold and they haven't had to wait six months for a building permit, which is entirely possible in a busy, developing municipality in the busy construction season, say from the spring to the fall, they can get in and get out and get their money out.

Based on whatever it costs them to borrow the money they need to put that building up in the first place, it's going to be worth it to them to pay the fine and get on with it. That's something that I'm sure, Madam Parliamentary Assistant, you will be monitoring. If this doesn't act as a deterrent, I'm sure you will look at revising that figure upwards again.

In this section you have said that for corporations the fines are significantly higher—\$50,000 for the first offence and \$100,000 for the subsequent offences—and I wondered whether you could some time later on today or in the next four days that we're meeting give me the definition of a corporation as it pertains to the Ontario Building Code Act.

If a corporation was a group of builders or an individual builder who had incorporated, would that apply to them, or does the reference "corporations" mean large corporations, and therefore we're dealing with commercial buildings and office structures and so forth? If "corporations" means corporations as defined under the Corporations Act, then we may well be able to deal with some of the big, heavy-duty builders who are incorporated. I think that would be an interesting aspect for us to look at in this bill.

So I say well done. Finally, we got those changes that I've addressed. They weren't needed originally because we were dealing in different markets and there were not the problems. We never had the blatancy. When I was on council, we never had builders who would proceed without building permits and ignore stop-work orders. The attitude has changed a great deal.

I think conditional permits are a very good way to expedite construction. I've certainly been aware that we've been issuing foundation permits in the past when it got to being late in the fall and we were concerned about the frost getting in the ground. Foundation permits were a very realistic way to go, and I think to have formalized conditional permits in the act makes a lot of sense. So we're pleased about that.

Obviously, we're pleased that the ministry has resolved the concern about the exemption for farm buildings on ungraded lumber. It is something we've asked about a number of times. I, as Housing critic, and other members of my caucus who represent farming communities have been asking for that consideration as well.

I assume the 6,000 square feet maximum is a size of building, Madam Parliamentary Assistant, that those

people who were concerned with this issue are happy with. Arbitrarily, I wouldn't know what size it would have to be, but I'm sure the ministry has concluded that 6,000 square feet meets the average or largest size of a barn or a farm structure. I'd be interested to know how that figure was arrived at.

Bringing the existing buildings under the act is a very real concern, and I think there could be some circumstances where that would bring a very real hardship on a property owner. I don't like using the term "grandfathering," because it's such a silly term, whether we say grandfathering or grandmothering, but we all know what's meant by grandfathering so I guess we continue to use it until we become a little more literate.

I really would like an explanation about why you're looking for that scope of bringing in existing buildings retroactively, other than, of course, for safety or health reasons. Obviously, we would support it 100% if in the past the building code allowed a certain type of balcony railing structure or a certain kind of stairwell design and we've since found that the fire marshal isn't happy with it.

We've had experience where a certain volume of space simply doesn't work in a stairwell in terms of safety, materials don't work or those kinds of remedies to existing standards in existing buildings, and the building has to be modified to be made more safe. Yes, I would certainly concur with that.

Because some of this work would be so cost-prohibitive, especially under the new Rent Control Act, for those property owners, if it's other than safety or health reasons, I think we've got to be very clear and specific about whether those property owners would be protected by the fact that the building exists today and it has functioned safely. We're not looking to ask them to do upgrading to meet a new code that has come in since the building was built.

It's a funny thing about this question of certified professionals being allowed to grant approvals, to use their stamp and then take over the role of the chief building official of a municipality. All the years I was on council I think we were all very sympathetic, certainly in my experience, to the fact that in the building season sometimes it seems there are inordinate delays in getting building permits. But I would have some difficulty with delegating the responsibility of the chief building official of a municipality to certified professionals.

#### 1540

Every professional engineer and architect is certified to practise in Ontario. They also are the people who develop the drawings, the design. They develop the working drawings. As engineers they bring lot grading certificates to that building official and say, "This building will work on this lot because we're certifying that the drainage is there" etc. But if they also turn around and are the people who then approve that lot grading certificate, that building functional design and the working drawings from the city's perspective, I think we've got a potential for a conflict of interest here.

I'm going to be very interested to hear the presentation, which I think is tomorrow—

**Mr Tilson:** The Ontario Home Builders' Association.

**Mrs Marland:** Whoever it is, yes, perhaps the Ontario home builders. I'm quite willing to listen to what the argument is about these certified professionals, but on the surface, that's my initial reaction. I'm perfectly happy to hear what they have to say and possibly to change my position completely.

**Ms Harrington:** You'll have to join our party, Margaret. We just agree so much.

**Mrs Marland:** I want to learn what they have to say.

The protection for the public today in Ontario is the chief building official of the municipality. It actually comes down to one person. Obviously, the chief building official in a municipality delegates authority to his staff, but if something goes wrong, do you know that it's the chief building official who is sued? It's not even the municipality directly, it's the chief building official.

**Mr Tilson:** Not any more under this bill, I don't think.

**Mrs Marland:** Maybe the bill changes that, but it has been his direct liability and responsibility. But I think, Madam Parliamentary Assistant, that's the protection the public has today. It'll be interesting to hear how they're going to suggest it could work. I acknowledge that if an architect or an engineer puts his or her stamp on, that's their professional credibility on the line. They're saying that building meets the building code. They're saying the building will be safe and the heating, ventilation and everything else will work.

But it is rather nice to know, for the consumer, that somebody else is going to look at that drawing and say: "Yes, we agree. It does meet the Ontario Building Code." That's what the Ontario Building Code is all about. It's about a certification to the public that your building is safe, your building meets the safety requirements.

I've always reassured people who complain about the process of getting building permits that it's not a bureaucratic maze, it's a certificate to you, as an applicant for a building permit, that your building meets a building code. I think it's a great system.

That brings me to my final comment, which is whether some of the other aspects that have become part of the policies through regulations, such as energy conservation and those areas, are a good thing for us to have in the building code. I would like to say up front that I think it's very important for the building code to cover those things which benefit the consumer. In the long run, if you have a building that is energy conserving, it saves the owner of that building money, and certainly from an environmental aspect we all benefit from those kinds of policies.

I'm not sure about other provinces and I'm not sure about the United States, but I think on the subject of energy conservation, I would like to see our Ministry of Housing look at some of the practices, and I don't know if they're legislated, that are put to use in buildings in Europe. I didn't have firsthand experience of this until I was over at the Olympics last month.

**Mr Tilson:** I knew you'd get into that.

**Mrs Marland:** I was in Spain and France. I know for those of you who have had that experience, which I hadn't

had, it's really impressive to walk in large office buildings, large hotels, small motels, restaurants and commercial buildings where the lights are not on in the halls unless there is somebody there. They all have these time switches that you press when you come out of your door. You press this light switch and it lights up the hall while you walk down it. It stays on long enough for you to get into your room or out of your room and down to the elevator.

There are two things about this. You save energy because you're not lighting the place, but you're also not heating the place, so you save energy if you're reliant on air-conditioning. Of course, our experience in France and Spain was that very few buildings are air-conditioned. I think that's because they're so strict on the use of energy, period. They don't encourage air-conditioning and they don't encourage unnecessary lighting.

I wonder if that's something that, before we finish the review of the building code, I could ask the ministry to give us an answer on. Would you consider making it a requirement in public buildings that washroom lights don't stay on when nobody is in there and hall lights in public buildings are not illuminated except voluntarily when people are in that hall by using these time-sensitive switches? As I say, I don't know whether it's a building code requirement in those countries, but boy, it sure works in terms of saving electricity.

I think in light of the fact that we've got Ontario Hydro looking at an 8.6% increase in our rates next year, we better start helping it conserve electricity and help the consumers conserve electricity in this province by mandating directions like this through the Ontario Building Code Act.

That's the summation of my opening comments.

**The Chair:** Thank you, Mrs Marland. I suspect we're all going to be tempted to lead you further into Spain and Barcelona, but we will not do that until after the hearings.

At this point we will then go back to questioning. I'm going to come back to Ms Poole, but I'd just like to indicate that in addition to Ms Poole and Mrs Marland with questions, I have Mr Tilson and Mr Perruzza, who have indicated they would like to ask questions or comment, and I just want to get anyone else.

We have an hour and 10 minutes roughly, so could I ask that we might go in 10-minute slots, which I think would then probably allow everybody to get some questions in today. Would that be acceptable to members? I've got two more. If one doesn't need 10 minutes, that's fine, but—

**Mr Tilson:** I guess both Ms Poole and Ms Marland have raised some excellent questions, and we could probably spend the rest of the afternoon just dealing on the points that the two critics raised.

**The Chair:** It was just whether Ms Poole and Mrs Marland wanted to add any more specific questions to the ones they raised in their comments, because initially they were going to do their comments and then ask questions.

**Ms Poole:** I was going to suggest that since a lot of Mrs Marland's comments and mine had implicit questions in them, perhaps we allow Ms Harrington and Mr Wildish



to respond, which may actually answer a number of the questions we have raised, then take it from there.

**The Chair:** All right, that's fine. Then I have down those who've indicated questions. We'll go to Ms Harrington.

**Ms Harrington:** Thank you. I have noted down, I think, all of your questions; I may have missed a couple. I'll try and do what I can to answer them very briefly. George, I see, has all the answers written down for me.

**Ms Poole:** No, he only has the questions written down. You're on your own.

**Ms Harrington:** Okay. I believe, Ms Poole, your first question was with regard to existing buildings and how the standards would be enforced and, following from that, the cost implied in keeping them up to standard. Certainly in this particular climate, economically it is a very valid concern, but let's just look at it very directly and say that we have not established what the minimum standard will be. That will be a gradual process and it will be looking at all—the people who are involved will be consulted about it.

I think we must all agree that a certain minimum standard is certainly a welcome thing and a necessary thing. As George has pointed out, it does bring together different regulations and standards in many different parts of government, and in that sense, hopefully it will be a step forward.

1550

With regard to the cost, I guess I can point out to you that in some circumstances that is going to be a problem for a particular owner, but in an overall sense, the 2% that is allowed within the guideline for rent increases over the next 10 years does provide \$8 billion worth of upgrading. The ministry has done a study and—let me see if I can find my figure here—the needed amount over the next 10 years will be between \$4 billion and \$7 billion. So this 2% within the guideline should theoretically cover it, but it certainly will not in each individual case. I don't want to go too far into that at this point.

**Ms Poole:** Just very quickly, I wonder if the ministry could provide us with a copy of that study. We have heard estimates before, but we've never actually heard of the specific study where these figures—

**Ms Harrington:** That's what I have been told. I will see if I can get that.

Your second question was with regard to the certified professionals program. Ms Marland has answered that in a wonderful way. In fact for half a moment I thought she was going to become a good socialist there. What she's pointed out is that there could be a conflict of interest, and the general public in Ontario is very happy and satisfied and very confident in the building officials of Ontario. It gives them a sense of security to know they are doing their job.

But I also want to point out, and we will hear, probably tomorrow, that there are disadvantages and there are advantages to having the certified professionals. So what we did look at is, what outweighs the other, and certainly we felt that the disadvantages outweighed the advantages of that particular proposal.

Your next question was with regard to entry.

**The Chair:** Excuse me, Ms Poole just wanted something clarified.

**Ms Poole:** Just two points of clarification. First, I think there was an aside that it was the Ontario home builders tomorrow who would be speaking to this. They may do that, because they have been working very closely with the UDI, but it was actually the Urban Development Institute that had a brief where it was very much supporting the idea of certified professionals.

The second point is that I don't believe it is that every engineer or every architect would fulfil this role but there would be certain ones selected by the chief building officer for a program. That is my understanding of how it would work. So they would be people who would not be in this conflict-of-interest situation, and certainly it would be narrowed to a very few eminently qualified persons. But tomorrow perhaps we'll hear more about their point of view.

**The Chair:** Could I just ask, on a point of clarification, what did you say about the advantages and the disadvantages? I wasn't sure whether I misunderstood in terms of the legislation. Could you just repeat what you said there? I heard you and you seemed to be saying the opposite of what the bill did.

**Ms Harrington:** What I said?

**The Chair:** Yes, the advantages and the disadvantages.

**Mrs Yvonne O'Neill (Ottawa-Rideau):** You said the disadvantages outweigh the advantages.

**The Chair:** Did you not mean the advantages—

**Ms Harrington:** The other way around.

**The Chair:** Yes, okay, just for the record, to make that clear.

**Ms Harrington:** Your next question, I believe, was with regard to the powers of entry, but I can't recall exactly what your question was around powers of entry.

**Ms Poole:** Apparently the original legislation did have specific wording related to the power of inspection and entry, as opposed to just the search warrant, and the municipalities were very much in favour of this, because it did give them enhanced power of entry. I've heard from several representatives from AMO that they very much liked the original way the wording was. They felt it did give them more power to deal with the problems. Perhaps Mr Wildish could confirm whether there was a specific reason that it was taken out.

**Ms Harrington:** As Ms Marland has said, I think most of the municipalities would be pleased with the direction that the step is taking, but with regard to your—

**Ms Poole:** I think that's true, but they were more pleased with the previous wording.

**Ms Harrington:** George, would you like to comment, please?

**Mr Wildish:** It's true that in Bill 103 there was a provision, in addition to a search warrant, similar to what we've been talking about for the past half-hour or so, for a permit to enter and inspect. This would be a permit that



didn't have as a basis the intent of finding evidence of an offence. It would be a permit to allow you in to do your job, whatever your job was, and it was a kind of permit that was appearing in other legislation at the time, so it was put in Bill 103.

A couple of things should be said about this provision. In the first place, it didn't allow anyone into an actual dwelling. To get into a dwelling, you always had to go and get a search warrant, so it applied only to commercial or other types of buildings. There were some problems with that, too, even for a building such as this one, because it would indicate that someone, an inspector, could come in, wander around and say, "I'm just here to see if everything's all right," even if you didn't want him there. It had another side to the sword; it cut both ways. It would allow people—inspectors, I'm talking about here, of course—to enter a private office or lab where something that they might regard as secret might be going on. This fellow can come in and say, "I'm just in here to see if you're doing work that requires a permit," because it didn't have in it a provision about obtaining sufficient grounds and so on to justify this entry.

Also, if a building inspector did notice that he saw rubble going out and lumber going in and he heard the neighbours complaining of jackhammers operating or whatever—in other words, he had good evidence that something was happening there in a construction way—then he could go and get a warrant. He could then; he could now. He goes to the justice and says: "I have every reason to believe, and here are my grounds, that construction is going along at so-and-so address and they're building without a permit, because there's been no permit taken out. That would be an offence and I'd like to get in to see about that."

There are some reasons, then, why it was not altogether a happy proposal, and it was removed on that basis.

**Ms Poole:** So this is actually the opposite of the Rent Control Act, where we argued that there should be reasonable and probable grounds for an inspector to go in, and the minister said, "No, the inspector should have the right to go in without the reasonable and probable grounds." This actually is the opposite of that, where you're saying you need reasonable and probable grounds before you proceed and go in. So there are two pieces introduced in the same year by the Ministry of Housing, but one goes one direction and one goes the other.

**Mr Wildish:** I'm not an expert in the rent control, but I'd make a stab at that for you. The rent control provides that where someone makes an allegation that something is wrong, the director may authorize an investigation to take place, and following the investigation, if they say they want to get in to find out some things, they have to go and get a search warrant. At the search warrant application, they would have to declare or show their reasonable and probable grounds. In other words, they can't get in without a warrant, and to get the warrant they have to have reasonable and probable grounds. But they can start an investigation based on an allegation, which I think is the argument.

**Ms Poole:** But they can't investigate unless they go in, at reasonable hours and that type of thing. But this doesn't allow that initial step.

**Mr Wildish:** Yes. I'd have to defer to the rent control people for the details of that.

**Ms Poole:** Perhaps we could explore that later.

**Ms Harrington:** You also mentioned that you had a concern about the 20-day appeal period. From the evidence—we did look into this—there have been no problems with that 20-day period for most municipalities. So if you did want to ask the ministry further about that, we find that that time is adequate.

You talked about consolidated standards across the province and that this was a good thing, and you wanted to make sure that superseded the municipal bylaws. At this point, from my reading, I understand there will still be municipal bylaws. Would you like to comment, George, as to which one takes precedence?

1600

**Mr Wildish:** Yes. As you're aware, there are municipal property standards now. Several property standards deal with things of substance with regard to building safety and so on, and those things would certainly be candidates to come into existing building standards. There are some property standards that deal with things like length of the grass and taking the abandoned refrigerator off the front lawn. Those aesthetic-type things might not, in the final analysis, be candidates that are accepted for the existing building standards, so there's a whole agenda of things to be looked at to make a determination which ones should come in and which ones would not come in.

Specifically, your question with regard to—

**Ms Poole:** Is there any possibility of conflict? That was what I was more concerned about.

**Mr Wildish:** Yes. You see, ones which are left with the municipality would not be in conflict, of course. They can make the rulings about the length of the grass or the peeling of the paint or whatever is left there. The ones that come into the existing building standards would not be left with the municipality. They would not be allowed to go higher or lower.

**Ms Poole:** They would supersede—

**Mr Wildish:** "Supersede" is correct.

**Ms Poole:** —any of the municipal bylaws that relate to the building code standards.

**Mr Wildish:** Yes, once they're in the standard.

**Ms Poole:** Once they're in the standard. Okay. Thank you.

**Ms Harrington:** The official answer to the question that I have written down here is that it's premature at this point to give a definite answer, because we will be consulting with the building officials and the stakeholders.

**Mr Wildish:** As Mrs Harrington said, everything about existing buildings is now a matter for consultation and development. None of these things are decided. There are many options about how they could be enforced and

which things would come in to be considered in consultation with the stakeholder groups.

**Ms Harrington:** Okay. You wanted the regulations sent out. George, would that be possible, if you could make a note of that? Or you could ask Ms Poole about them.

**Mr Wildish:** Regulations? Which regulations sent out?

**Ms Poole:** Just that the Ontario Building Code comprises the regulations. The problem is that many people never really get to see the draft regulations before they become regulations. I wondered what type of consultation is taking place with those regulations so that when they do come out, you've answered any questions and problems the public may have with them.

**Mr Wildish:** Yes.

**Ms Harrington:** You can do that?

**Mr Wildish:** Yes. I can remember your remarks from second reading on this topic. Do you want the long answer or the short answer?

**Ms Poole:** Probably, given the time, the short answer. Members are allowed long questions. You have to give short answers.

**Mr Hans Daigeler (Nepean):** The right answer.

**Mr Wildish:** The good answer is that in the last several years we've had a regulatory forum program going, as you'll perhaps be aware. We've made many steps forward to make this program, the process of reg development, very open; so we have started to send out the regs, before they become law, to all the interested client groups.

The last time, for example, 1,200 copies of the proposed reg changes went out to client groups like architects, engineers, manufacturers and whoever we can think of, to anybody who wants to be on the mailing list. Incidentally, we invite every person here, of course, or any caucus to get on that list to receive the Building Code Act and all those amendments. So you can keep yourself enthralled with the exciting things that are happening there.

**Ms Poole:** Research.

**Mr Wildish:** Yes. The code—and we're going to hear some more of this tomorrow from presenters, I'm sure—is moving into new fields, as Mrs Harrington has mentioned: environment, pollution, social matters of one kind or another. The whole scope of code interests is expanding. People are going to make the point, I'm sure, tomorrow that this requires a different sort of approach to reg development, which I think is getting to what you're talking about.

We expected this, of course, when we started several years ago into this expansion, this openness, where we said: "Okay, we're going to new fields. We're going to go out to the public to get input from them. This is going to bring many more client group stakeholders before us. We're going to have to expand the process. We're going to have to make arrangements for this."

We now have hearing committees set up. We now have seminars that we run. We now send out the booklets I mentioned to you—1,200 this last time. Anyone who's

interested is invited to ask for one of those and become involved. From our point of view, the more involvement, the better. There are no restrictions, and we expect, over time, because of the advancing agenda we've talked about already today, we'll have to move in this direction more and more. To answer your question—I'm sure it will come up tomorrow—yes, we will be inviting and hoping to participate more and more with the client groups in advance of sending out the proposed regulations.

One more point I should like to make on this: The regulations in Ontario change about every two years; the national building code changes are five years. When one regulation cycle is finishing—right now, the other one has already started, so we're talking with groups like home owners or with regulators, whatever, about the current set. Code changes are out for discussion and the other cycle is just finishing.

We welcome their participation. We will of course have to take it upon ourselves to pull together groups to discuss things in advance. For example, the environmentalist people make a proposal. On our own, we'll have to pull together a group to deal with that—and whoever else is interested—to discuss the thing before the proposals are put together. They're mailed out to become the upcoming suggested changes.

**Ms Poole:** Thank you. That was a good answer.

**Mr Wildish:** If you have an hour, I'll give you the long answer.

**Ms Poole:** I thought that was the long answer.

**Ms Harrington:** Ms Marland had several comments and questions. With regard to her comments that we agree on, I'd like to reinforce that and thank her, first of all, about being pleased about the warrantless search requirements now, our agreement with regard to the certified professionals and also our agreement extensively with the energy and conservation aspect of buildings in the future.

I would like to reinforce her request that the ministry look into the various ways things are dealt with in Europe. I'm sure we would have ways of doing that and I hope in the past they have been aware of other countries. We don't have to reinvent the wheel.

**Mrs Marland:** Might we get that answer while we're still in the forum of reviewing the code this time?

**Ms Harrington:** I'm not sure how extensive your request is, but would we be able to get something back, George?

**Mr Wildish:** We, as a branch, of course monitor codes in other provinces, the States and so on, and enforcement methods, techniques and so on. The National Research Council, which has the Institute for Research in Construction, does this in a broader sense for all the world. If we don't know ourselves, we can certainly contact them and ask who will have a better handle on it than we have and be able to report whatever we can find to you within the time frame we have.

**Ms Harrington:** We were hoping by next week, if you could have something. Would that be possible?

**Mr Wildish:** Yes.



**Ms Harrington:** Okay. Thank you very much. A couple of other replies to your comments: First of all, you did discuss intensification. I think a broad cross-section of the industry and many different people across Ontario believe that intensification makes eminent sense. I recall just last night reading an article in one of the papers that was in the clippings by a professor from Queen's University in Kingston about all the different reasons that intensification makes sense, maybe not in the way you're seeing it in Mississauga, but I would like to send you that article.

You also mentioned that the fine levels are good. You asked for a definition of corporations and we will endeavour to do that for you. You also mentioned that conditional permits are good, and I think I've dealt with your question about existing buildings. That will be developed and I think most people will agree that there should be a minimum standard and a consolidation throughout the government of all the different regulations that deal with buildings.

You also talked about ungraded lumber. It is very interesting to realize that it was—before the 1990 election in fact—the Liberal government that took away the exemption for farm people to use ungraded lumber.

**Mrs Marland:** Really?

**Ms Harrington:** Yes.

**Mrs Marland:** Bad advice.

**Ms Harrington:** And in fact it didn't come to somehow public exposure until last winter, which is a very strange phenomenon.

1610

**Ms Poole:** Mr Chair, on a point of order: Perhaps I can clarify that it was not brought in under a Liberal government. The idea was introduced, but it was actually passed as a regulation by the NDP government, just for clarification.

**Ms Harrington:** I have checked into it and it did come from before September 6, 1990.

**Ms Poole:** It had been introduced but not passed as a regulation, I believe.

**Ms Harrington:** Yes. You'll have that on the record.

**Mrs Marland:** Margaret, excuse me, can I respond as you go along so I don't get too far behind? There were two things.

I listened very carefully to what you said and your response to Ms Poole about existing buildings. You've gone fairly quickly over it and you said, "We agree there would be minimum standards." If you're referring to minimum standards in terms of safety, then you're right, that's what I was saying.

Could you address with a little more definition perhaps areas other than safety where you would not be insisting that existing buildings be brought up to a new code? In general the building code has always dealt with those areas that involve safety, and the building code originally, as I understand it, was designed to deal with anything that could come under the category of safety.

Now that the building code has been expanded for new buildings to cover the energy and the other aspects that

we've also talked about this afternoon, energy conservation, I think there has to be a very clear delineation on the part of the ministry with existing buildings, because if I do own an apartment building, in the long run it may be worthwhile for me to invest in new energy-conserving windows or a new type of heating system, but I just don't have the money to do that.

Would you be willing to put a very clear delineation about where this Bill 112 will apply to existing buildings? Otherwise I think it has the potential for being very unfair to existing property owners. Also, you don't have the money in the ministry and the municipalities don't have the money in their municipal budgets to provide the staff in the kind of numbers that would be necessary to go out to existing buildings and say, "You know, we've got this new building code here and you're supposed to have this kind of energy conservation furnace and these other kinds of measures that are supposed to be part now of existing buildings."

I just feel that has a very grave potential for implications because, first of all, it would be very costly to enforce, but also I think it would be unjust not to protect existing buildings in areas other than safety. Would you be willing to find out whether your minister would be willing to have a definition that protected existing property owners from undue requirements other than safety?

**Ms Harrington:** I think you've hit upon a very important point that we will be hearing, I'm sure, again tomorrow. It is a concern, I understand. There are two main points to answer that. First of all, it is not going to be laid upon people; it is going to be worked out over a period of time with all the people involved and the municipalities.

The question of enforcement: We do not want to down-load and put extra burdens on them. As you know, they had complained for a couple of years about that happening. That's a realistic thing, that we deal with the enforcement, who is going to do it, and the whole consultation process, as to what is going to be included.

The other main point is that we have to be realistic, and I think that's exactly what you're telling me. You can't do the impossible. You may want to have extremely high standards, but you can only do what is possible. That's what this whole process of developing regulations will be, to look at the reality out there. As George mentioned a few minutes ago, the question of aesthetics, the appearance of the yard or the building, doesn't seem like an appropriate thing to be included.

That's the kind of thing we will be discussing, finding out what is a realistic minimal level. I'm not prepared at this point to say what things are going to be looked at, because that is part of the process we will be going through. All I can tell you is there'll be extensive working together on this and, obviously, it will have to be very realistic.

**Mrs Marland:** I don't take much comfort in your response, Margaret, because when you say it's something that will have to be worked out—

**Ms Harrington:** This is only enabling legislation. I thought I made that very clear. It cannot say these things in



the bill. It is an enabling framework for the regulations, so we cannot do that in the bill.

**Mrs Marland:** I know, but this is even scarier.

**Interjection:** That's your point.

**Mrs Marland:** The point I want to make is, when you say you're going into this whole consultation process as to what will be included in the regulations, that just blows my mind. A lot of the difficulty we had with the rent control bill was that, here in committee, in committee of the whole, in second and third reading debate in the House, we could only deal with what was printed in the bill, but most of our concerns were with what we anticipated might be done through regulation.

Maybe your reply will be enhanced in the next couple of days, but if you're not willing—no, I won't say that, because I have respect for you personally. If you're not able to give the kind of assurance I'm looking for on behalf of existing buildings and property owners—by the way, I gave an example of an apartment building; I'm not an apartment building owner—then I'm serving notice now that I will place a formal amendment on behalf of our caucus to ensure that existing buildings are protected from a new building code which includes matters other than safety.

Having said that, in the design and construction of new buildings, I support these other things very much, because I think they're ultimately to the benefit of the property owner if they're energy-efficient. Also, it's a benefit to all of us if we conserve energy. I think when you say it's all going to be left to the consultation process and it'll be dealt with in regulations, then that doesn't give me any peace of mind.

You mentioned the aesthetics of a building. I'm not concerned about the aesthetics of a building, and I'll tell you why. Under the Municipal Act, municipalities have the power to pass a property standards bylaw, and I leave that up to the elected officials at the municipal level. If a building is aesthetically unacceptable, residents and taxpayers in that municipality can go to their councillors, and if they don't have a property standards bylaw, they can ask them to pass one and enforce it. So that stuff isn't part of this discussion at all, I would say.

**Ms Harrington:** No, I was giving an example of one thing that was not part of this or that reasonably and rationally would not be included.

**Mrs Marland:** I know.

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**Ms Harrington:** What I'm saying is that you have to give those people who over many years have developed regulations for us some credit that this process is going to work in a rational and reasonable way.

**Mrs Marland:** Yes, but what I'm saying to you is that's not a very good example. The aesthetics of a building don't need to be discussed at a provincial level because there is power under the Municipal Act for them to be dealt with there. That's not a good example because it's not something we even need to discuss here, because there's jurisdiction elsewhere. I'm simply saying, let's dis-

cuss the things that are going to be included in Bill 112 and the people who are going to be impacted by Bill 112. When you are including existing buildings, you've got to be very clear that it's fair and it's realistic.

I heard what you said about addressing the enforcement, which is an issue in itself in terms of millions of dollars of cost, but I would not be happy unless you can give us some assurance in answer to a question—maybe you want to discuss it with the ministry overnight and give us an answer tomorrow. But unless you can answer that question in the affirmative, that you would exempt existing buildings from sections of this code, other than those dealing with safety, then I will place an amendment to that effect.

**Ms Harrington:** Okay, I think we would like to clarify that for you, if we can. I thought I had tried. We are talking about process, about how this minimum standard will be developed. That's how I see it. If George could help me out a bit further—could you clarify it for Ms Marland?

**Mr Wildish:** Mrs Harrington has given a good explanation. I just want to underline one aspect, and I precede that by saying, as she's already said, this is all subject to negotiation and I'm not giving you a final answer by any stretch of the imagination. But you mentioned in your earlier remarks a concern that older buildings, built some years ago, were perhaps allowed to decay a bit and might be required to come up to current-day standards. Of course, it would not be building code current-day standards. It would be similar to fire retrofit standards, with which I suppose you are familiar.

**Mrs Marland:** That's a safety thing. I am familiar—

**Mr Wildish:** So the standards are lower than existing code levels. They're as low as we can live with comfortably.

**Mrs Marland:** Right.

**Mr Wildish:** It's that level which everybody would be happy to agree on, that that's as low as a building should be allowed to go. Those are the kinds of mandatory standards that would be in place for existing buildings.

You were right, in your further remarks, that some poor-shape buildings would be below those levels. There are bound to be some. In the distribution curve, there are going to be a few that are down there, and they will be the ones that won't be able to get by with the 2% allowance and the 3% allowance because they are so bad. That's the problem area you've been talking about. The big bulk of buildings will of course be adequately taken care of by the 2% and the 3% under rent control, no question about that.

You've mentioned safety, and of course that's a key area. We're interested in the safety of the buildings, and other kinds of factors probably—and I stress probably, because again this is all to be negotiated—would not be as important in this process. But we are trying to draw together in existing buildings—that is the proposal—all the things dealing with existing buildings. You know, consolidation again is part of the process. Does that add any clarity at all to this?

**Mrs Marland:** I do have more comments, but I'd like Mr Tilson to have an opportunity.

**The Chair:** Please go ahead.

**Mr Tilson:** One of my questions dealt on this specific point of changing regulations, the process of changing negotiation. You've talked about subject negotiation with different interested parties, I suppose, that sort of thing.

As I understand it, the whole process, for example, that we've got into with the government—and I rarely like to congratulate the government, but I will with respect to its changing its philosophy as far as the graded lumber in farm buildings is concerned, although I hope there'll be some more clarification of that. As I understand the negotiation process, the Ontario Building Code is based on the national building code. The national building code is revised every five years. The Ontario Building Code is revised in the process every two years, give or take, and there are a number of committees that are set up during this whole process—I guess it's a continuous process—to develop regulatory changes. These changes are then sent out in a process of consultation to this long list you talk about, whether it's building companies, architectural people, whoever is on the list, and then on top of that, the ministry goes out on the road, holding seminars and talking about these types of changes. Then it goes back to the minister and there's more discussion.

So there's quite a process, as I understand it. I'm probably oversimplifying it, as is my wont sometimes. And they're very technical, probably more technical than the members of this committee, with all due respect, could talk about. Well, maybe some of the members are experienced in building regulations, but I can tell you that I'm not.

What bothers me—and it got into the innocent little fencing that was going on between Ms Harrington and Ms Poole over who was to blame over this graded lumber and farm buildings—I'm certain that this subject was debated during this negotiation process over changes of where we're going. I can't believe it wasn't discussed, and if it wasn't discussed, how in the heck did it slip through?

That's my fear: that the so-called negotiation process you're talking about has some major flaws in it, particularly when you're talking about finally getting back to the question on the fear that standards of existing buildings would allow future changes without further consultation by the public or adequate consultation by the public.

I guess I give probably the very example we'll hear in this hearing is this major goof on graded lumber for farm buildings. I suspect that's one of the major reasons why we're here. That's a major example of how the consultation process doesn't work. I wonder if you could comment on that.

**Ms Harrington:** Well, you certainly are a good lawyer.

**Mr Tilson:** No, I didn't mean it as that; I'm just saying there's a hole in the system.

**Ms Harrington:** That makes some sense. I'm not that familiar with the process of the regulation development, and I hope, George, that you are. If you would like to comment on the process, I don't know if you can answer that one example of what happened back then.

**Mr Wildish:** I can bring a little light. One of the questions raised before—I think Mrs Poole raised this question

before—was on the code development process, the cycle we go through. We brought along a little handout we'll leave with you that describes the cycle. It has a flow chart that shows who gets what when. This is here for you to take away if you wish, and it will explain the cycle to you and I hope give you some confidence in the way that cycle works. We'll hand this around.

The specifics of your question about farm lumber I'm not a full expert in, and we may have to get you some more data on this, but I suggest to you maybe the idea that of the hundreds—and I do mean hundreds and hundreds—of reg changes that go through, we don't too often have one go astray. With this one, something did go astray. But as a general rule, hundreds of these things go through. The size of the book you're familiar with; it contains thousands of entries. There are hundreds of them changed each reg cycle, and we rely, it must be admitted, on the expert groups we have out there—architects, engineers, builders, whatever—to send in their comments to us, and then the hearings committees, made up of expert people to review them all, plus our own staff and so on, and the follow-up seminars when we go out to tell the public: "Here are the new changes that are coming up. Here's what's going to happen to you down the line." We go around the countryside doing these. Hopefully we pick them all up. One maybe fell through the cracks here. The reasons why it fell through the cracks I'm not expert enough in this case to tell you. We can certainly investigate what happened, I suppose, for you.

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**Mr Tilson:** Things happen, for whatever reason. I'm asking this question of either you or Ms Harrington; perhaps it's more appropriate of Ms Harrington. This is an example, when you start relying on changing systems by regulation to such things as standards for existing buildings, of a major goof. It's over. The regulation's passed before anybody can pick it up. In other words, it missed this consultation process.

I don't know whether the consultation process is adequate or not. It sounds pretty detailed. I haven't had a chance to look at this. My point is that on major changes such as this, is it appropriate to rely on the regulatory process? That's really what it gets down to.

**Ms Harrington:** I think overall it has worked extremely well. There are regulations in many bills and different ministries. You have picked an example that I think I would concede is somehow a small one but a telling one. I would like to invite you to be part of that process.

**Mr Tilson:** I don't want to be part of this process, because I'd be out all year. That's one way to get me out of the House; I couldn't take shots at you. I don't mean to be flippant about it. It's a very detailed process and I'm not so sure that every regulation needs to come through a bill; I'm not saying that. But there are major changes such as this that perhaps would be more appropriate if they did come through in bills. I'm just asking that question. That's really all I'm putting forward.

**The Chair:** Mr Hansen had a question related to the same issue, if he could put that at this time, Ms Marland.



**Mr Ron Hansen (Lincoln):** It's actually Margaret's comments on the existing buildings. This is a question on these accessory apartments going in, that there's a certain height requirement for a ceiling in a new apartment, especially in the basement. If you're going to take the old property standards, would one of these new apartments, on remodelling, be able to go into one of these older homes that, say, has a six-foot basement and is not the required height? What standard would be followed here? I think this is what you're talking about: Which one? Do we take the lower standard that was in existence when that home was built or do we take today's new standard when putting in an accessory apartment?

**Mrs Marland:** Is that safe?

**Mr Hansen:** Well, you have your entranceway. All that's there because you're remodelling, and you have your own washroom and your own kitchen facilities; but in the basement on the height.

**Ms Harrington:** You are talking about how, over the next few years when we do have standards for existing buildings, that will impact on this basement unit that you're talking about?

**Mr Hansen:** Yes. In the older buildings the basements aren't as high as the ones they built after 1953.

**Ms Harrington:** Okay, it will be a minimum standard—that's my understanding—for existing buildings. Right now, if you're renovating your house and putting in another apartment unit, you would have to get a building permit and adhere to the standards that are here now because that's a renovation.

**Mr Hansen:** But in an existing building; I think this is what Margaret's question is and it's my question also. I had a building, an older one built in 1928, that had a basement where I could hardly walk around. It was six feet. So therefore, for the existing building built in 1928, that was a standard basement and that was the height. This is what I'm wondering: What do we do in those instances so we're covered later on, so there's no confusion out there for people who want to put in a basement apartment? If it's only six feet high and you say the existing requirements at that time for a basement were that, it would be a basement apartment.

**Ms Harrington:** If you are going to make that space into an apartment, you would have to go through the existing bylaws and necessary standards now. Then, later on, when the standards for existing buildings are developed, it would be a minimum standard, I presume, and you could fit into it. But your standard to build now you would have to go through as usual, as you would have for many years.

**Mr Hansen:** I'm still sort of confused.

**Mr Tilson:** Ask it again.

**Mr Hansen:** As it is, in the city of Welland—that's where this building was—I would not be allowed to put in a basement apartment because the city has said, "No, it has to be a certain height." But now you come along with the regulations here. You want to put in this basement apartment. We talk about what was existing in 1928; would it be allowed? So there's no confusion out there in the pub-

lic. Maybe everybody understands, but all of a sudden somebody reads it a little bit different and I just want to take that confusion out. That basement apartment would not be able to go in with that building permit, because it wouldn't be up to today's standards for a basement apartment—not the building itself, the height of that existing basement. Do you follow me?

**Ms Harrington:** You couldn't put it in if it didn't meet today's standards.

**Mrs Marland:** Pardon? I didn't hear the answer, I'm sorry.

**Ms Harrington:** If he was to try to put it in now, he couldn't put it in unless it met today's standards.

**Mr Hansen:** I'll give it give back to Margaret.

**Mrs Marland:** Okay, because I think this is a really good example and it's a very important question that Mr Hansen is asking. An existing basement is just that: It's an existing basement. There's no way people can realistically go to the cost of digging up the concrete floor and deepening the volume of space so you have added height.

I don't understand your answer to Mr Hansen's question either. I understand his question very well, but I don't understand the answer. If your government wants basement apartments, how is it going to happen if you're not going to give an allowance for existing buildings? Is that height requirement in the bill, Ron?

**Mr Hansen:** I don't think so. I just know the city of Welland has a certain height requirement.

**Mrs Marland:** The question I think you have to be able to answer—maybe you need to have the staff look at it overnight to get the proper answer, in fairness to you. The question is: Is there a requirement for a minimum ceiling height to do with overall volume of space in terms of safety? That may be part of the argument, I don't know. But I think that's a very good question and I think we need a clear answer to it.

**Ms Harrington:** Did you feel there are any answers in here?

**Mr Wildish:** I think the new apartments you get—the apartments-in-the-houses bill lays out what's going to be allowable in conversions of basements to apartments. They are not identical, of course, with what a new building code building would require. This is not in effect yet, of course, but when it comes into effect this will govern conversions.

**Mrs Marland:** Does it mention ceiling height, apropos the question?

**Mr Wildish:** Yes, ceiling heights. Perhaps for tomorrow, we could identify this paragraph and so on.

**Mrs Marland:** Sure.

**Mr Hansen:** I just used that as an example because I couldn't think of anything else in the building of coming up to standards.

There could be another question here too. With the use of the low-flow toilets—now you put renovations on the house, you add a section on. In this building permit, to put this new washroom, the existing washroom might be turned into a larger living room. Would you be able to



move the existing plumbing from the old washroom into the new washroom? There are certain time frames when you're building a new home or remodelling, but it's not clear whether you can transfer—maybe the toilet is not broken, but you want to use the low-flow—not buy a new toilet, but use your existing one.

These are some questions I think people out there who are remodelling will have to know. Maybe it's written in somewhere. I've read quite a bit, but I haven't come across it as yet. Maybe some of these issues we can talk about—older homes. We've got a lot of old stock out there and a lot of people would be very upset if they found out they couldn't move their bathtub and everything else over into the new washroom.

**Mrs Marland:** They can't afford new fixtures, but for any number of economic reasons they're having to build an addition instead of buying a new house.

**Mr Hansen:** Just for clarification—

**Mr Wildish:** Existing fixtures sometimes are allowed to remain, because the existing plumbing lines can't handle new low-flow fixtures, for example. The grade in the size of the piping isn't adequate. In general though, plumbing doesn't allow any reductions such as a renovation does for buildings. As you know, if you're renovating a building, you don't adhere to the very top level of building code requirements. There's a little break given as long as you don't make the building worse than it was and maintain the existing standard with which the building was built in the first place. There's a little bit of leeway in there for the building official to negotiate with.

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That doesn't generally apply to plumbing, because with plumbing you can't drop the standard. It has got to be put in safely. But the use of existing fixtures, I think, is a different matter. There is some stuff written on that and perhaps we can provide that for you tomorrow as well. It certainly sets it out for you.

**Mr Hansen:** Thank you.

**Ms Harrington:** I just want to make one comment. For the first time in Canada, the Ontario plumbing code will regulate fixture flow rates and the requirements will be phased in over the next four years. So I imagine if you were caught in that, you would not be able to use those fixtures. If you were doing renovations, you would have to have the low flow, if you got within that time frame.

**Mr Hansen:** I understand quite a bit of that bill because I introduced a private member's bill on the use of low-flow toilets and showerheads in Ontario, but after I read the regulations, I had a little bit of confusion with the remodelling. As I say, you get a permit from the town and you're remodelling, you're putting an addition on. The slope of the new washroom could be changed at that time, because the new addition going on to the house would have to meet the new standards. Could you take an old fixture and put it in a new part of the house?

**Mr Wildish:** In general, the answer is no.

**Mrs Marland:** Can I just be very clear that the four-year phase-in requirement to meet this type of plumbing

standard is only in new buildings? We're not talking about retrofit?

**Mr Wildish:** Not retrofit, no, but if you're doing an extension and renovation in the building, then the new part will meet the new standard.

**Mrs Marland:** So you are saying in four years' time you're not going to have a choice about what kind of plumbing fixture to put in the addition to your existing house.

**Mr Wildish:** The existing plumbing lines may not handle low flow, so you wouldn't have to put in one of the new low-flow toilets in that situation, because the grade and the size of the piping wouldn't be adequate to deal with one of the new low-flow toilets.

**Mrs Marland:** So the phase-in is really for new buildings, because obviously an addition isn't going to change the existing plumbing lines.

**Mr Hansen:** But we're talking about a complete addition put on the house that would be a new part of that house. It juts out the back. The plumbing that would go in there would wind up all new plumbing and the addition would have to be built to today's standards. The person couldn't take his old toilet from the other part of the house and put it over in the new addition. A new toilet would have to go in there. That new section would be covered under the new building requirements. There could be a lot of confusion for people out there.

**The Chair:** Some of us should get into the business of toilets, I sense. There were a couple of other people who wanted to put some questions out.

**Mrs Marland:** Okay, I'll just finish, Mr Chairman. I want to really emphasize my concern that the answer I've heard today is that this major area of existing buildings is subject to negotiation, and that's not satisfactory to us. So we'll look for some revision to that from the ministry. Maybe after they've discussed it a little further, they might be able to come up with their own definition in certain categories as it pertains to existing buildings. Thank you.

**Mr Anthony Perruzza (Downsview):** I just wanted to touch on a couple of things, and they may in fact have been cleared up. I want to follow on some of the things that Mrs Marland was saying earlier about the role of the chief municipal building officials and how they are essentially responsible for standards and they essentially provide security for people in the sense that they're the watchdogs to ensure that buildings are built to appropriate standards.

**Mrs Marland:** Well, they're the signature on the building permit.

**Mr Perruzza:** Yes, and what Mrs Marland was speaking to, if I understand her correctly, and maybe I can ask her the question, were the provisions in the act which would allow builders or people to go out and hire their own professionals to certify building plans and to submit them for approval, or in fact to proceed with the construction of the projects.

I believe, if I understood Mrs Marland correctly, she was saying, "Please don't do that because these are the people who are involved in the preparation of the documents,

of the plans, of the working drawings etc, and they shouldn't be the same people certifying them for building purposes." Correct? Is that what I heard you say?

**Mrs Marland:** Yes. We don't have any disagreement on my position on that. With the parliamentary assistant, I also left open the caveat that I'm looking forward to hearing tomorrow the argument about why we should consider certified professionals, but today I'm not happy to remove the responsibility of the municipality for issuing the building permit.

**Mr Perruzza:** It was precisely that, because the way I thought about it was, if someone does that and the building or the construction of the building is continually monitored by inspectors, then obviously if someone is doing something that's either inappropriate or doesn't conform to standards, at that point the inspectors could issue orders to comply or can have the approvals revoked. To me, what this provision would do is streamline the process a little bit and be able to expedite the issuance of permits.

**Mrs Marland:** May I just respond, through the Chair, to Mr Perruzza? The role of the building inspector is to ensure that the building that is being built complies with or follows the drawings, both the working drawings, the lot grading and everything else. The building permit is issued on the basis of this set of drawings. The builder takes the set of drawings and executes the construction of the building on the land as drawn.

The job of the building inspector is to ensure that the building that is being built meets the requirements of the drawings, the construction envelope, everything. The building inspector is not there looking at a building and trying to memorize all the building code on the spot, because he has the assurance that if he reads the drawing, he knows that the drawing has been certified in the building department before the building permit was ever issued. That's how it works.

The job of the building inspector is not to decide that the building is meeting the building code or to question the drawings. Excuse me; there are a lot of routine things that the building inspectors know without even looking at the drawings, whether the building is being built according to the building code. But no, I think what you're suggesting—I prefaced my comments about the fact that it would be great to expedite the processing of building permits in the heavy construction seasons, through the spring, summer and fall. It's costly for people to wait for building permits, because the cost of construction goes up and they pay more taxes on the land and it costs them more to borrow the money to do their projects.

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**Mr Perruzza:** I understand your concerns.

**Mrs Marland:** I still feel the responsibility has to lie with the municipality to issue the building permit and to give the certification that the case requires.

**The Chair:** Can I just interject here? I think the issue is clear and it's been indicated there may be some comment on this tomorrow when we come back for clause-by-clause. I would allow Mr Perruzza just a brief comment,

but I would like to get Mr Lessard in before 5, when we were going to retire until tomorrow.

**Mr Perruzza:** My concerns aren't as serious with that particular provision. Ultimately, I think the chief building official is responsible for construction and to ensure that whatever construction takes place, wherever it takes place, conforms to the required codes. If it doesn't, then obviously they have powers to ensure that that happens, and if an architect or an engineer who is retained privately to ensure that is responsible, then that person, I suspect, at the end of the day would be liable for the corrections.

There is something I am far more interested in and that does concern me with this bill. It's on page 6 of the bill. It's the conditional permit provision. There's a reference here to sections 34 and 38 of the Planning Act. I don't have that in front of me. If this particular provision could be addressed with that reference and if we could get a copy of those two sections or a copy of the Planning Act, I think it's something we really need to take a close look at in conjunction with this particular bill.

What this provision would in fact do is, for me, put the cart before the horse in terms of the approval processes and the permit issuance process with respect to communities and local community concerns. Quite frankly, if this section does what I think it does, then big-money builders have an overwhelming advantage.

**The Chair:** Which section was that?

**Mr Perruzza:** It's section 3 on page 6, the conditional permit of Bill 112.

**Mr Tilson:** Subsection 8(3).

**Mr Perruzza:** Right, yes, subsection 8(3). If I can leave that out there, I'd like this section to be addressed.

**Mr Wayne Lessard (Windsor-Walkerville):** I was interested, and I know my wife would be interested as well, in the provisions that deal with the inspections by board of health members, being as she's a member of the health inspection division at the health unit in Windsor. As I understood Mr Wildish's comments, the legislation provides for boards of health to continue to do the inspections that they're doing now, and as I read subsection 32(3), it talks about agreements that could be entered between counties and the local boards of health to provide such inspections.

My wife tells me that now she does some inspections with respect to restaurants that involve the plumbing code, and she was under the understanding that she wouldn't have to continue to do this, but that doesn't seem to be the case from my reading of the proposed bill. I wonder if you had some comment about that.

**Mr Wildish:** In the past, municipalities have been able to make agreements with the county about enforcement. Perhaps the county would enforce plumbing for the whole county, all the municipalities in the county, or sometimes an individual municipality could make an agreement with the local health unit. Those kinds of things are still all possible under the new act. It provides for all those kinds of agreements, so the health unit can be in charge of plumbing inspection. That will carry on. Agreements and arrangements like this will remain in effect until the



county councils write new bylaws, so they will carry over. There is that grandfathering provision.

**Mr Lessard:** Does this apply to cities as well? Because the situation I'm talking about is in the city of Windsor, not part of a county.

**Mr Wildish:** They can make an agreement with a health unit, I think.

**Mr Lessard:** So they would have to make an agreement for there to be any change. There's not any change that's anticipated as a result of this legislation, then.

**Mr Wildish:** The existing ones will carry over until the county—you have to look at the exact wording there. I think it says that until the county makes the change in bylaw, the existing agreements will carry on.

**Mr Lessard:** All right. My other question has to deal with the definition of "unsafe." I think that was section 10. This is the expansion of buildings being unsafe. One of the definitions is, if it's in a condition that could result in damage to neighbouring buildings or lands. I sort of read that in conjunction with section 10 as well, which talks about the change-of-use provisions and that there shouldn't be any change of use if there is a hazard as determined under the building code. I guess what I'm interested in knowing is what sort of situation might result in damage to land. Does that really open up some restrictions on change of use in cases where there might be some environmental considerations?

**Mr Wildish:** When issuing a change-of-use permit, the building official will be obliged to consider all applicable law, as it says in the act, and if one of those applicable laws happens to be an environmental law he will have to, by contact, presumably, with the environmental agencies, get their acquiescence, "Yes, this proposed change is all right," or else of course certain construction or fans or whatever is going to be required to take care of it. Does that answer your question?

**Mr Lessard:** When you say compliance with the law, I'm not sure whether non-compliance with the law means that it's a hazard. I wonder if that's what you're saying.

**Mr Wildish:** The question is that an owner proposes to change some occupation from, say, an office to a printing plant or whatever. The printing plant has fumes and such and requires, under various laws, whether it's labour or environment or whatever, exhaust fans and so on to remove these fumes. Naturally, that's the law that would have to be complied with, and so he couldn't get the permit. He'd have to go and get a renovation permit because now he's going to have to install fans or maybe put in some fume closets or whatever he has to do to make this new room comply with the codes.

**Mr Lessard:** All right. What about the definition of "unsafe" and that being damage to land? What sort of damage to land might be contemplated by that section?

**Mr Wildish:** The original thinking about this particular point was that a building could be in very rough condition, one way or another, and a brick or something could fall from it or fly from it in the wind and damage a neighbouring property. You can get into some situations where

snow swirling around one tall building can impact on its neighbour and cause trouble. Rainwater can run off—that's covered in the act—and it can affect the neighbouring property. There are some difficulties with this particular legislation. I believe we may have some more to say later in the week with regard to this point. It's a point well taken.

1700

**The Chair:** There are a couple of housekeeping matters I want to raise with the committee members. But before I do that, Ms Marland just wanted to make a few comments. I'm sorry; Ms Harrington. Excuse me; too many Margarets here.

**Ms Harrington:** First of all, as to some of the technical details you had, Mr Hansen, with regard to the heights and the plumbing, I just realized that Mr Arlani is here, who is one of our expert people. I would refer you directly to him if you would like to get a little more expert and detailed answer.

**Mr Hansen:** I think it would be important if he would respond to the committee, because other members also would like to hear the answers.

**Ms Harrington:** Okay.

**The Chair:** Perhaps tomorrow there may be some time at the conclusion of the witnesses' testimony. We had the cancellation—the last group is now moved up to 3:30—so if there are some other comments like that, it might be an appropriate place if that's agreeable and people are going to be here.

**Ms Harrington:** My other question to the committee was whether you would like the additional answers and clarifications that you requested in writing, or would you prefer to set aside some time at the end of tomorrow's proceedings to hear from staff on that?

**The Chair:** Perhaps Ms Poole and Ms Marland would care to—

**Ms Poole:** I think it would be excellent to have it in writing if that is possible; I don't know.

**Ms Harrington:** I'll just ask staff, though, when that could be ready.

**Ms Alexandra Samuel:** I think all of our—

**The Chair:** I'm sorry, could you please come forward and identify yourself?

**Ms Samuel:** I'm Alexandra Samuel. I'm Margaret's executive assistant in the Ministry of Housing. As you can see, most of our buildings branch staff are here for the next day along with the rest of you, so if you wanted written answers we could certainly provide them for you at the beginning of next week. Otherwise, when Mr Arlani addresses these more technical problems tomorrow afternoon, perhaps at that time Margaret might also have a few more words to say as sort of preliminary answers. Would that be helpful?

**Ms Poole:** That would be very helpful and if we can have it some time around—I guess Labour Day is Monday, so Tuesday or Wednesday. That would give us a few days before we go into clause-by-clause.



**The Chair:** When those are prepared they could be sent to the clerk's office and then she will distribute them. Yes, Ms Marland?

**Mrs Marland:** The most critical question I need an answer to very quickly, so that I know whether I need to prepare an amendment, is whether the minister is willing to give a very clear delineation of which sections of this act will apply to existing buildings, or would she be willing to give an exemption for all sections except those pertaining to safety.

**Ms Harrington:** I will personally speak with you as soon as I can with regard to that.

**The Chair:** Okay. If I could just make one point, we're starting tomorrow at 10 o'clock. I'd like to get some indication from the committee, because we will be having groups coming, if we can begin at 10 o'clock sharp regardless of exactly how many people are here. I will try to make sure we have somebody from each caucus, but given that people are coming from various places, perhaps we could start at 10 o'clock, if that's agreeable.

As I said, the group that was to come at 3:30 tomorrow isn't coming. The 4 o'clock group is coming at 3:30, so if there are some other questions—sorry, just to repeat: The

group that was to come at 3:30 tomorrow is not coming, the Toronto-Central Ontario Building and Construction Trades Council. The Price Club, which was to have come at 4:00, is now coming at 3:30. We can deal with Mr Hansen's question then at the completion of the Price Club presentation.

**Ms Poole:** In an attempt to be helpful, Mr Chair, if Mrs Marland takes a look on page 25 of Bill 112—it's subsection 34(2)—it delineates there about the existing buildings, so it's fairly specific on this. It isn't just those buildings in unsafe condition. I believe that was the previous legislation and now this has got a much broader scope.

**Mrs Marland:** I know, but that's my question. I don't need to be told that. With respect, that's the whole essence of my concern.

**The Chair:** I think that's understood and the parliamentary assistant is going to get a response to your question.

I would then adjourn the committee until 10 o'clock tomorrow morning. The clerk reminds me: 10 o'clock sharp.

The committee adjourned at 1706.



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#### **Substitutions / Membres remplaçants:**

- \*Hansen, Ron (Lincoln ND) for Mr Drainville
- \*Harrington, Margaret H. (Niagara Falls ND) for Mr Martin
- \*Lessard, Wayne (Windsor-Walkerville ND) for Mrs Mathysen
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- \*Poole, Dianne (Eglinton L) for Mrs Fawcett
- \*Tilson, David (Dufferin-Peel PC) for Mr Jim Wilson

\*In attendance / présents

#### **Also taking part / Autres participants et participantes:**

Margaret H. Harrington, parliamentary assistant to the minister of Housing  
George Wildish, special assistant to the director, Ontario buildings branch, Ministry of Housing  
Alexandra Samuel, executive assistant to Ms Harrington

**Clerk / Greffière:** Mellor, Lynn





## Legislative Assembly of Ontario

Second session, 35th Parliament

## Official Report of Debates (Hansard)

Thursday 3 September 1992

## Standing committee on social development

Building Code Act, 1992

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

## Journal des débats (Hansard)

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Thursday 3 September 1992

The committee met at 1005 in room 228.

### BUILDING CODE ACT, 1992

#### LOI DE 1992 SUR LE CODE DU BÂTIMENT

Consideration of Bill 112, An Act to revise the Building Code Act / Loi révisant la Loi sur le code du bâtiment.

**The Chair (Mr Charles Beer):** I'd like to call this session of the standing committee on social development to order. We are here considering Bill 112, An Act to revise the Building Code Act. Today we're going to be hearing from a number of witnesses who have come to present their positions on the bill.

#### TORONTO AREA CHIEF BUILDING OFFICIALS COMMITTEE

**The Chair:** First of all, I'd like to ask the representatives of the Toronto Area Chief Building Officials Committee if they would please come forward to the table. I wonder, gentlemen, if I could ask each of you to introduce yourself and, if you would, I think not only for Hansard but for some of us who are not quite as familiar with your organization, if you might just tell us what TACBOC is.

**Mr Agnis Robeznieks:** Good morning, Mr Chairman and members of the committee. My name is Agnis Robeznieks. I'm the director of the building division for the city of Mississauga and the chief building official of the city of Mississauga. Mr Tony Chow is with the city of Etobicoke and is the commissioner of buildings for the city of Etobicoke.

On behalf of the city of Mississauga, I thank you for this opportunity to comment on the proposed legislation, Bill 112, An Act to revise the Building Code Act. My comments not only represent the position that the city of Mississauga takes with respect to the proposed bill, but also are a reflection of and a position adopted by the Toronto Area Chief Building Officials Committee.

TACBOC, the acronym for the Toronto Area Chief Building Officials Committee, is a voluntary committee comprising the chief building officials from 13 municipalities in and around the Metropolitan Toronto area. The municipalities that are active participants in this committee are Brampton, East York, Etobicoke, Markham, Mississauga, North York, Oakville, Oshawa, Richmond Hill, Scarborough, Toronto, Vaughan and York.

These municipalities represent a population base of 3.5 million people and were responsible, in 1991, for an aggregate building permit value in excess of \$5.5 billion, which is approximately 50% of all the construction value that's carried out in the province.

My comments are a result of a thorough discussion at TACBOC meetings over the last four years, commencing

with the father of Bill 112, Bill 103, and finally with the current edition, Bill 112.

Allow me to comment that our agreed-upon position is that the Building Code Act has, since original proclamation with associated regulations in December 31, 1975, had a very positive effect on the building industry in the province, providing for uniform mandatory building regulations and standardized practices, where arbitrary diversity had previously existed in local municipal bylaws. In addition, the complementary increased emphasis on education and training in code-related matters, for building officials and builders alike, resulted in an improved product being delivered to the customer.

Over the ensuing years, a number of weaknesses in the original legislation have been identified and formally brought to the attention of the provincial authorities by groups such as the Ontario Building Officials Association, TACBOC and other concerned groups and individuals.

The proposed legislation represents the fruits of extensive consultation by staff of the buildings branch of the Ministry of Housing, building officials, architects, engineers and other representatives of the building industry.

The concerns as expressed by TACBOC have been addressed and generally incorporated in the proposed legislation. TACBOC is satisfied with the contents of Bill 112. However, we are submitting to the standing committee concerns that still exist and, in the opinion of the city of Mississauga and TACBOC, that should still be addressed. Mr Tony Chow, building commissioner of the city of Etobicoke, will address these issues in his presentation and submission to this committee.

Bill 112 represents a substantial rewrite to the current Building Code Act. Although some of the amendments are of a housekeeping nature, there are a number of significant proposals, both in terms of philosophy and implication, on the operation of a building division. The bill proposes to introduce greater flexibility, efficiency and effectiveness in the administration and enforcement of building regulations.

Although generally pleased with the overall contents of this legislation, TACBOC wishes to express its delight with respect to four specific amendments, namely:

1. Conditional permits can be issued for any stage of construction, even if the proposed construction might contravene some applicable law, if certain conditions as set out in the act are met.

2. The chief building official may allow the use of equivalent materials, techniques and systems not authorized in the Building Code Act, subject to the conditions set out in the building code.

3. The definition of "unsafe" is expanded in relation to buildings.

4. Fines for non-compliance are substantially increased.



We thank you for the opportunity to express support for this proposed legislation. We as a municipality and TACBOC as an organization have eagerly anticipated the revisions as proposed in Bill 112 and look forward to its early enactment.

**Mr Tony Chow:** My name is Tony Chow. I am also the secretary of TACBOC. Thank you for the opportunity to speak before your committee. As Mr Robeznieks just indicated, all 13 members of TACBOC are very excited about this bill and most of its content. We wholeheartedly support this proposed legislation. However, we ask your committee to consider the following four points of comment. They're really elaboration of the letter which our chairman sent to you on August 10, 1992. I believe you also have a copy.

The first point relates to the proposed clause 8(2)(a) which deals with applicable law. The act compels a chief building official to issue a permit unless, among other things, the proposed work contravenes the act, the code, or any other applicable law. But the term "applicable law" is not defined. If this term is defined, then the building owners and designers would have available guidance to ensure that all the plans and documentations are appropriately and expeditiously prepared, so as to save time. It would also result in less confusion among building officials and achieve much more uniform application of the act by the chief building officials.

One option we suggest is to follow this bill's predecessor, Bill 103, which was introduced in 1989, by defining "applicable law" as any of the laws described in the building code and then proceed to list these laws that would be affected or triggered by the proposed construction.

One other option is to define the term to mean "any law that places an explicit obligation on a chief building official not to issue a permit unless the law is or will be complied with."

The second point I'd like to address is inspection. Clause 12(1)(b) in the previous Bill 103 proposed to authorize entry by building inspectors for the purpose of determining if a permit would be required for the work. However, this authority is no longer found in Bill 112 and we believe this is very necessary, especially due to the fact that a subsection 10(1) is being introduced to require a permit when there's a change in use, even though there's no construction proposed.

The third point we have is on the warrant. There's no question that this current section is an improvement over the existing provision, which only permits a search warrant issued under the Provincial Offences Act. Under this act, it requires a search warrant to search and prescribe evidence to be seized. However, we find the idea of a warrant to inspect as suggested in subsection 22(1) of Bill 103 a more positive approach and we're confident that a justice of the peace would find it more comforting to issue an inspection warrant as opposed to a search warrant. The wording is certainly less threatening.

The last point relates to section 34, where it lists a whole bunch of regulations that are authorized to be passed. In addition to the significant improvements mentioned earlier in Mr Robeznieks's presentation, one new

provision in subsection 34(2) deserves special recognition. We are enthused about the prospect of one day having a set of established standards for existing buildings. As buildings age, they need repairs, maintenance and sometimes even upgrading. Some kind of code for existing buildings or equivalent would go a long way to ensure our buildings are safe and continue to be fit for occupancy.

It can be argued from the public safety point of view that a code for existing buildings is just as important as the current building code for new construction. I refer to the proposed clause (c) under this subsection 34(2). It would appear that the scope of standards for buildings has been substantially expanded or at least contemplated.

In order that further comments could be provided in the future, two basic philosophical questions must be asked. First, is the building code a set of minimum safety standards for all buildings, or is it intended to be all-encompassing and even include a social policy statement? Second, should the ultimate responsibility of a municipal building department be defined? Perhaps these two questions should be considered in assessing the resources needed by a municipality to fulfil the mandate under the Building Code Act.

In closing, I reiterate our support for Bill 112 and look forward to early proclamation of this act. Thank you very much.

**The Chair:** Thank you very much for your presentation and for the material you have left with us. I think you've raised a number of quite clear and specific points. We'll now open it up for questions, and I have Ms Poole.

**Ms Dianne Poole (Eglinton):** I'd like to thank the officials from TACBOC for their presentation today. It is extremely helpful to our committee.

We recognize that you have very strong support for the bill, which seems to be quite widespread, but you've raised a number of interesting issues. I'd particularly like to ask you about some of the sections that were in Bill 103 which you would like to see reinstated in Bill 112: for instance, the authority for inspections and also the warrants for inspections.

Would you like to give us some specific example where, as building inspectors try to do their job, the current legislation would not be as helpful in just having the search warrant as opposed to having the specific authority to enter and an inspection warrant?

**Mr Chow:** In the inspection area, when certain work is being done, especially in a house, in a residential building, it's not always evident that construction is going on. If the authority to enter for the purpose of inspection is limited, then there would be no opportunity or very little opportunity to find out whether or not the building code is triggered.

As I mentioned in my example, if subsection 10(1) comes into being, in other words, when the use of a building is changed to a more hazardous classification, the building inspector would not be aware of the change unless he had the authority to enter and see it for himself. This would also apply to commercial and industrial buildings. As to the protection for privacy of home owners,

there is another section in the act which says that if it's a place used as a dwelling by a family, one cannot enter unless there is a warrant, unless we have enough grounds to get a warrant. We have no problem with that.

We do feel that in order to do our job properly, we should at least have the authority to go in and see whether the construction requires a permit.

1020

**Ms Poole:** Would you recommend that authority be put in the act that there be a provision regarding notice and that type of thing, or do you think it should just be the inspector's right to go into a commercial or industrial premise without any type of notice?

**Mr Chow:** Do you want to take that?

**Mr Robeznieks:** Maybe I'll take that. Just to preface the answer to your direct question, the difficulty we have with inspection of works that are believed to be taking place either illegally or in contravention of the code is that for us to gain access to the premises, we have to go to a justice of the peace and secure a search warrant. It's fairly difficult to convince the justice of the peace to issue the warrant and the requirement is that evidence be seized upon entry. If we believe the infraction to be a setback or zoning infraction, it's fairly difficult to seize evidence indicating that the building is being constructed closer to a property line than is permitted. If the ceiling height is lower than it should be, it's difficult to seize that type of evidence. You can't take a piece of drywall off the wall and show the judge that you've got some evidence here that there's work being done in contravention of the code. Typically, it's very difficult to get these types of warrants issued, and unless the owner of the property invites us in, there is no way we can verify that the work is being done in a fashion other than what is permitted under their by-laws or the Ontario Building Code. So any kind of relaxation at that end of it, or the definition of a warrant to inspect as opposed to a search warrant, would be beneficial.

In answer to your direct question, should we have the right to access, I don't believe so. I think we should follow the procedure outlined in the current act, which would require us to still secure a right to inspect, and that the right to inspect be limited to certain times of the day and so forth.

**Ms Poole:** If I could just ask for one point of clarification from the ministry: It's been a few weeks since I read Bill 112, but I thought there was a provision in there that would remove the seizure component for the search warrant. Is that correct?

**Mr George Wildish:** Yes.

**Ms Poole:** Would that alleviate your concerns at all, or would you still prefer to see the original wording in Bill 103 as far as the authority?

**Mr Robeznieks:** Our feeling was that the wording in Bill 103 was better wording than is currently in Bill 112.

**Mr Chow:** If I may add, I do feel that if the warrant simply states that the purpose of the visit is for inspection only and not to search—"search" is a big word; you can search anywhere—it limits the right of the inspector to do

certain things that we may not want him to do. I feel it's less threatening.

**Ms Poole:** Thank you.

**Ms Margaret H. Harrington (Niagara Falls):** Thank you, gentlemen, for coming and for working with the ministry over several years now with regard to this bill.

You mentioned four different points: very good, clear concerns that you put forward. I thank you for your third point with regard to what we've just been discussing, the warrant to inspect. We will take your point into consideration, but we basically agree. Also, we certainly agree with the comments you made on the benefits of having some minimum standards for existing buildings.

Your follow-up points on that about the extent and philosophy of that, as well as the need for resources for the municipalities to carry that out, will certainly be part of the process that we will be going through in developing the code for existing buildings, and certainly you and everyone else will be part of that process.

On your first point regarding defining applicable law, we have our legal adviser here, Jeff Levitt, and I was going to ask him if he would be able to help me out in answering that question for you.

**The Chair:** Would you come forward to the microphone and be good enough just to introduce yourself for Hansard.

**Mr Jeffrey Levitt:** My name is Jeff Levitt. I'm with the legal services branch of the Ministry of the Attorney General. I am assigned to the client ministry of the Ministry of Housing.

There was an experience with the applicable law under Bill 103 in terms of defining what particular laws would be applicable and should be included in that type of regulation. I think the TACBOC members are familiar with that experience. It proved difficult to define it in a way which addressed everybody's concerns and the list either wasn't too long or too short. But having had it brought up again, I guess what can be said is that it will take away the continued request of TACBOC to consider the idea.

**Ms Harrington:** Was that helpful at all?

**Mr Chow:** If I may, if it's so difficult for the ministry or indeed for anybody to come up with a list, imagine how much more difficult it is for the chief building officials to enforce the law.

**Mr Levitt:** If I could respond.

**The Chair:** We are a little tight for time and I do have Mr Tilson who has a question. I'm afraid as Chair I'm going to have to keep us to our half-hour, but if you could be fairly brief, please go ahead.

**Mr Levitt:** In terms of the difficulty that it wasn't difficulties of legalities, it was difficulties of practicalities: While there seemed general agreement about the various lists that went back and forth, some people said, "We'd like to see it shorter," some people said, "We'd like to see it longer," and the difficulties were more of a practical nature than strictly legal.

**Mr David Tilson (Dufferin-Peel):** I'd just like to continue on this point. Ms Harrington has indicated that



she agrees with your comments with respect to the search warrant and you're saying you agree with issues on the concerns of what this phrase "applicable law" means. You've also made comments about the lumber issue, that you're going to change that one.

When delegations are coming to this committee, I think that if the government is agreeing with statements that are being made and saying, "Yes, we're agreeing with it and we're going to do something," it would be useful if we could see the proposed amendments the government is putting forward now so that delegations such as these could comment as to whether they agree with those proposals or not. Ms Harrington, I'd like you to comment on that, number one on the topic that is now before us with applicable law, and, number two, the topic that you agree with their comments with respect to the right to the warrant-to-enter-and-inspect issue and, number three, the lumber issue.

**Ms Harrington:** The lumber issue we have not talked about today, but what I was pointing out—

**Mr Tilson:** My question is not whether you have talked about it today or tomorrow or yesterday; my question is, I think it would be useful, and I'm sure delegations such as these would find it useful, that if you've got proposals drafted, we see them now. We could probably save a lot of time and I think it would be useful in hearing experts such as these comment on whether they agree or disagree with any proposed amendments you have.

**Ms Harrington:** Mr Tilson, the press release with regard to the lumber issue did go out at the end of July, and that is not part of this act at all; that is a regulation and that's very clear.

With regard to the comments these gentlemen have made, and I have responded to what they have said, what I was doing was noting that they are in fact agreeing with what we have put forward in the bill.

1030

**Mr Tilson:** I don't think so. I think we've just been talking about the subject of applicable law for a starter. I find very interesting the description of your dilemma. If I were a building inspector and I saw the words "applicable law" and I looked at all these other court decisions, ministry directives, other laws, I'd be bewildered too. If you've got an amendment in mind, I know the committee would like to see it ahead of time, as would delegations such as these.

**Ms Harrington:** I didn't say I had an amendment in mind. I asked our legal counsel to clarify with them, since I couldn't answer that question. I'm wondering if Mr Wildish could add anything to that.

**Mr Wildish:** You've raised three points here: lumber; inspection warrants or administrative warrants, as we called them; and the third, applicable law. I just want to clarify something. I don't believe Mrs Harrington gave support to the idea of putting the administrative warrant back in. I just want to clear that.

**Mr Tilson:** I'm sorry, I didn't hear you, sir.

**Mr Wildish:** I don't believe Mrs Harrington gave support to reinstating the administrative or inspection warrant. I don't think that's what you had in mind.

**Ms Harrington:** No.

**Mr Tilson:** You're not agreeing with that.

**Mr Wildish:** No.

**Mr Tilson:** That's fine.

**Mr Wildish:** I think that's what you said. I just wanted to make sure.

**Mr Tilson:** That's not fine, but I understand your position.

**Mr Wildish:** Yes.

Applicable law: I don't know that much more can be said on this point except that it has been a problem for many years, as you have heard. It is one we are committed to try to solve in whatever way we possibly can. The various options have been talked about, listing them all and so on.

We have indicated to our client groups, our stakeholder groups, that we're going to tackle this in the future for them, because it is important in some way. Whether it's a detailed list in the regulations, at the back as an appendix or as a definition remains to be seen as we try to address this problem.

We certainly recognize they're difficult, there's no question about that, and the ministry has certainly committed itself from time to time to deal with this. It's certainly on our agenda right now.

**The Chair:** Excuse me, I'm going to have to interrupt you in the interest of time. I think the issue has been set forward. I want to thank you both for coming before the committee. I'm afraid you were out of the room and we have to keep to our schedule. I'll certainly make sure you get on later, but I'm afraid we're out of time. Thank you again for coming.

#### ONTARIO HOME BUILDERS' ASSOCIATION

**The Chair:** I now call the Ontario Home Builders' Association. Gentlemen, welcome. I wonder if you would introduce yourselves, and please go ahead with your presentation. Do we have a document that's been distributed?

**Mr Jeffrey Doll:** Thank you for allowing us to attend and make our presentation. I'll introduce everyone. I'm Jeff Doll. I'm with Coscan Development Corp, a builder in the Ottawa and Toronto areas. I work with the Ontario Home Builders' Association and chair the technical committee. With me is Peter Goldthorpe. Peter is with the Ontario Home Builders' Association as the director of public affairs. He works very closely with the buildings branch of the ministry and is here to support what I have to say.

The Ontario Home Builders' Association represents home builders and renovating contractors throughout Ontario. Our member companies build approximately 80% of the housing stock in Ontario, and as an association we take a very keen interest in technical and policy issues that affect housing.



I understand from Peter that we're allotted a half-hour, and I'll try to keep my comments as brief as possible so we have some time for questions and answers.

There are three points I wish to cover. One has to do with the decision not to go ahead with a certified professional program. The second concerns the provision for as-constructed plans, more commonly referred to as as-built drawings. The third is about the building code. More specifically, we have concerns about the scope of the code and how it is reviewed. I'll go into each of those points in a little more detail.

With respect to the first, the certified professional program, I want to say that we feel it is unfortunate that this program was dropped. Our support for this program goes back several years. In December 1989, at the request of the buildings branch, we made a deputation before a committee of Toronto city council. Our presentation was in support of a pilot project—and I emphasize pilot project—that would have tested the certified professional program.

You probably know council eventually rejected this pilot project and the program is now out of favour. We think this program can be an important part of a solution to a very real and pressing problem. The problem is that the construction industry is cyclic. During peaks, municipal officials are hard pressed to process approvals and backlogs quickly mount.

A program of the certified professional program could provide an efficient means to increase resources on a temporary basis and prevent such backlogs. This becomes much more critical as we get busier, and we all hope in this housing industry that'll be soon.

The second point I want to raise has to do with the provision for as-constructed or as-built drawings. Section 7 of Bill 112 enables the chief building official to require that a set of plans of a building as constructed be filed with the chief building official on completion of the construction.

This is a legitimate requirement for public buildings that may need to be evacuated in an emergency. It's also a legitimate requirement for large structures that firefighters and other emergency personnel may have to enter. But in the housing industry, we see no justification for this requirement for residential structures built under part 9 of the building code. In housing, plans are frequently modified at the request of the purchaser, and this requirement could place an onerous burden on the residential construction industry and add substantially to the cost of housing, and we're all working to produce affordable housing.

The Ontario Home Builders' Association asks that part 9 structures, residential housing, be explicitly exempted in this permissive provision of the act. We're very worried about this.

The last point or points I want to raise have to do with the building code. As you know, the building code is a regulation made under section 19 of the Building Code Act. As a regulation, amendments are reviewed by the regulations committee of cabinet. There is no debate in the Legislature and no discussion in public hearings such as this one.

The user's guide at the front of the 1990 Ontario Building Code has this to say about the code:

"The code is essentially a set of minimum provisions respecting the safety of buildings with reference to public health, fire protection and structural sufficiency. Its primary purpose is the promotion of public safety through the application of appropriate uniform building standards."

#### 1040

If this is all the code is, and it is all the code was for a number of years, cabinet review of amendments would be fine. But the scope of the code is expanding. As an example of the scope expansion, water conservation measures are being proposed in the current round of amendments. Energy efficiency has been around for a number of years, but the levels of insulation now being proposed go far beyond health and safety and offer the home owner no cost-effective payback. Other proposed changes would arbitrarily convert what used to be storage space into living space; I'm talking about the basement. Those are only three examples of scope expansion.

All these changes happen at a great cost to the home buyer. Our industry has estimated that changes in the 1990 building code added \$2,500 to the price of a house. The proposed changes for basement insulation alone in the current round of amendments will add at least \$3,000 on an average home.

As the scope of the code expands, two things happen. First, the consequences of change become more far-reaching and difficult to predict. Second, it becomes more likely that various policies or interests will come in conflict.

How do we reconcile a 5% or 6% increase in the cost of a starter home with a housing policy that sets affordability guidelines? We're very concerned about this scope of the code. The Ontario Home Builders' Association believes the government should pursue one of two options.

One possibility would be to explicitly limit the scope of the building code to requirements affecting health and safety. Given the importance of these concerns, it would then be appropriate to retain the regulatory status of the code and have amendments reviewed by cabinet.

Secondly, if the government wishes to pursue the current course of using the code to implement a variety of policies, we do not believe it is appropriate to keep the code as a regulation in the Building Code Act. Since the broader mandate means that amendments can have much more profound consequences, any proposed changes should be subject to full legislative and public scrutiny.

Thank you for your attention. If you have any questions, Peter and I will try and help you.

**The Chair:** Thanks very much for your presentation. We'll move right to questions.

**Mrs Margaret Marland (Mississauga South):** First of all, I'd like to thank you very much for the informative presentation. It's one I was looking forward to because my position has been—and I actually put it on the record yesterday—that I have supported, as the Housing critic for our party, the expansion of requirements that cover energy conservation, whether through plumbing or heating amendments, windows and so forth. I wanted to hear the

argument because I knew there was a counterargument to it and I wanted to hear what it was. As I said yesterday, I'm here to listen and, if necessary, change my opinion.

I want to ask you a couple of questions, though. At the beginning of your presentation this morning you talked about these areas that I've just referred to being legitimate requirements for public buildings that need to be evacuated in an emergency. You also said it's a legitimate requirement for large structures that firefighters and other emergency personnel may have to enter.

It blows me away that you have actually made that statement, because you and I both know that firefighters and other emergency personnel have to enter every building. Some of the worst accidents, especially in recent months in my city of Mississauga, have been where the firefighter has been at extreme risk in the basement of a single-family home. I've forgotten what the term is when there's a combustion blowout, but one very severe injury involved that individual.

My concern is for public buildings to be evacuated in an emergency, yes, but I also have a very grave concern for individual, private homes that also have to be vacated in a situation of emergency. So I'd like you to comment further on that part for one thing, because a fire is a fire no matter what size the structure—if it's one person in a single-family home or 500 people in an office building, the risk is still to human life—and also to ask you a little bit more about the certified professional program. I'd like you to comment on the fact that you're looking for that to be in place during peak periods of construction.

I did say yesterday that it's very difficult for municipalities, from May to October, to process the demand for building permits. I'd like to know, with a certified professional program, whom you would see paying the fees of these paramunicipal employees—I can't think of another term. Obviously, the municipality can't staff up for six months of a construction period. It's just not affordable for municipalities to do that. If the certified professional program were there to supplement the staff in the approval process during those peak periods, how would the fees be handled?

Today the public have tremendous protection because they can sue the municipality. Right now, they can sue the chief building official. I agree very much with that change in the code, where it goes from the staff to the municipality as a whole. Would the certified professionals have the same liability as a municipality has? That would be the second question.

Also, you were talking about the 5% or 6% increase in the cost of starter homes because of some of the areas going as part of the building code, which I personally support, particularly basement insulation and so forth. I don't know anything about construction, but you're professionals and you do.

Is it not true that if there were a 5% additional cost to that home because of insulation and other energy conservation requirements, down the road, the home owner—if not that home owner, subsequent home owners—would benefit from that, because he's got a more energy-efficient home, plus we're protecting the environment?

**Mr Doll:** Peter would like to answer the first one with regard to the fire concerns.

**Mr Peter Goldthorpe:** Mrs Marland, you're absolutely right, a fire is a fire. Firefighters lose their lives fighting fires in low-rise residential structures, they lose their lives fighting fires in high-rise apartment buildings and other large public buildings, and every life lost is a tragedy.

Our point is simply this: There is a considerable difference between a low-rise residential structure and high-rise structures and other public buildings that are not built under part 9 of the building code. At a certain point, we have to look at limited resources in society and we have to look at tradeoffs.

We feel it is legitimate to look at a tradeoff in this area for low-rise residential structures. If you started requiring as-built plans for every single low-rise residential house built in Ontario, you would add considerably to the cost of housing in the province, and I don't think it's a cost the people of Ontario can bear.

**Mrs Marland:** Just very quickly—

**The Chair:** I'm sorry. With the time we have, I want to make sure that someone from each party is able to address a question—regrettably, we don't have more than half an hour—and in fairness to the other witnesses. I believe you wanted to just respond to one other point and then I would need to move to Ms Poole and then to Mr Hansen.

**1050**

**Mr Doll:** There were two points Ms Marland brought up. One was the certified professional program. With regard to the cost that would be incurred during the implementation of a program, obviously the builder would be responsible for this and the builder would be hiring the professional to have his plan certified before submission to the municipality.

Under the new revisions, the chief building official is held liable. However, under the professional certified program, that liability would have to be passed on to the professional person who certified the drawings for submission. It becomes either a professional engineer or a professional architect, whoever would be implementing the program.

I'll be very quick and brief about the 5% and 6% cost of the home. Our market right now is very soft. We're building housing in the Ottawa area, and I know they're building it also in the Toronto area. To get a new home buyer in there, for \$100,000 to \$120,000 on a starter home, if we add 5% to 6% to that, we're defeating the whole purpose of a 5% down payment. You amortize the cost of a 5% or 6% increase on the cost of a home over 25 years. All I can say is that there are a lot of people who are buying homes and the difference in putting a down payment of \$5,000 or \$5,500 is going to make a difference as to whether they buy or don't buy. We have a real hard time with any increased cost in this market. We've really got our margins down, too.

**The Chair:** Thank you. Ms Poole and Mr Hansen, I'm afraid that's all the time we'll have on this part.



**Ms Poole:** I'll try to be brief because I know Mrs O'Neill has a question about the regulations.

**The Chair:** I'm sorry, just Ms Poole and Mr Hansen.

**Ms Poole:** Oh, I thought I could share my time.

**The Chair:** Perhaps if everyone could recognize it, usually we only have about 10 to 15 minutes for questions. I'm going to have to just have one person per party, I think, respond. If there's more time, fine, but we just don't—

**Ms Poole:** Mrs O'Neill will go then.

**Mrs Yvonne O'Neill (Ottawa-Rideau):** Thank you for coming, gentlemen. I find very interesting what you're saying here about the code and the development of the regulations and the process, because we asked this question yesterday when we were being briefed by the parliamentary assistant and the ministry officials and they indicated that there's a very—if I remember correctly, and that was just yesterday—strong, consultative process that goes on regarding the development of regulations.

We've had complaints about regulations in the Ministry of Housing before on other bills we've worked on, so I find this very strange that an organization as large as yours, operating in two of the major cities of the province, would have this complaint. Could you explain your input into the development of regulations and whether you're on those mailing lists that we heard about yesterday and whether you're on the consultative process end?

**Mr Doll:** Yes, I can. Our concern is that we, the Ontario Home Builders' Association, are a very large organization. We are very active in consultation with the ministry. We deal with the ministry. We have a technical committee which is made up of builders throughout the province, and we invite the public companies—Consumers' Gas, Ontario Hydro—and there are consulting engineers and builders on this committee. The purpose of the committee is to address concerns that we have with the buildings branch and the Ministry of Housing.

As the code is being amended for 1993, we have been involved in reviewing the draft proposals for code revision. We are submitting them to the ministry and the code committee is meeting again this fall. Our concern is that we are very interested in being involved and hope that we could be involved in an earlier process so that as the amendments are being prepared, you can use the expertise we can provide from our industry to the Ministry of Housing. We are the people who are out in the field. We are the people who have the experience. If we were involved at the amendment-development process time, then I think we could abbreviate our processing and come up with better codes. I hope that answers your question.

**Mr Goldthorpe:** If I could just add very briefly to that, what Jeff forgot to mention is that in the technical committee we have a member from the buildings branch who attends each of the technical committee meetings. Certainly, Mr Arlani is here and he has gone out of his way, over the years, to make sure that the OHBA understands the decisions and the process that are going through in the buildings branch. We don't have concerns specifically with those aspects.

Being part of the consultation process, where we have concern is that we think it would be more productive, given the increasing likelihood that you will be getting competing policy interests in the future, to be involved in exploratory discussions at an earlier stage. Let's face it: Once you have a proposal which is publicly circulated for comment, there's some investment in that proposal. It's inefficient and it's sometimes not expedient to reconsider the proposal at that stage. It can be reconsidered, or it can be examined and other alternatives can be looked at a lot more effectively if the interested parties are looking at it sooner rather than later.

**Mrs O'Neill:** Thank you for your very helpful answer.

**Mr Ron Hansen (Lincoln):** On page 2, down near the bottom, the second to last paragraph says: "Water conservation measures are being proposed in the current round of amendments. Energy efficiency has been around for a number of years. But the levels of insulation that are now being proposed go far beyond health and safety and offer home owners no cost-effective payback."

I cannot completely agree with that particular statement. One thing is that if we don't get into using the low-flow toilets and showerheads, the cost will will be borne by the house owner back through the municipal taxes in order to supply these services. It's actually a cost saving in the end. Not only that: Instead of putting in 10 homes in the area that would be serviced by the sewers and water, developers can wind up possibly putting in 20 homes. So the servicing has gone down a lot for the municipality, which will actually, in a sense, maintain the cost of the lots at a lower level because of the services.

The other thing too is that I built a home in 1972. I had taken the specifications at Hydro at that time, what it was doing for home insulation. I went the full extent. What I did in 1974 is paying off today. The one big area where there was a problem when they did a check on my house was in the basement. I was losing 25% of the heat out of the basement. By cutting back, that puts the house out there, but the home owner will have to come along after and pay an insulator and a contractor to come in to insulate his basement in order to save maybe 25% of his heating cost.

I know there are some regulations in there, like where a cold-air duct has to come down to the furnace and they have an electric heater just right next to it. The home owner moves in, stuffs a rag in the four-inch pipe coming down and it's no purpose at all. It's been put in by the contractor and paid for, but the home owner doesn't like to leave the electric rad on, so he plugs it so there's no fresh air coming in the basement. Some of these things have to be looked at in those areas. Could you comment on some of the areas where I don't agree with what you stated in here? Maybe you've got a better reply back to me.

**Mr Goldthorpe:** We didn't come here today specifically to discuss the building code. We mentioned the insulation as an illustration of the kinds of concerns we have with respect to scope. I can speak specifically to the full-height basement insulation proposed, but I can't speak specifically to the other proposals today.



In the case of basement insulation, we estimate that the incremental cost of going from two feet below grade—I'll try to speak quickly—to full height would be at least \$3,000. The \$3,000 amortized over 25 years at about 9% interest: You're looking at carrying costs in the range of \$300 a year. Your energy savings from going two feet below grade to full height are approximately 17%. If you take 17% energy savings on an average heating bill of about \$1,000 a year, you're looking at \$170 of energy savings against a \$300 cost. It's simply not a cost-effective upgrade.

**Mr Doll:** If I can just comment on that, Mr Hansen, since you built in 1972 codes have been revised many times. Our insulation is far superior now to what it was in 1972, so the 25% saving may have been effective in 1972, versus what we're now saving in basement insulation in comparison to what we're doing. We now have to put R12 in our basements two feet below grade, we've now got to put R20 in our walls and R32, I think it is, in our attics.

Our codes have progressively gone up, brought on by public demand. The consumer and the builder are coming to us and saying, "We do want conservation," but there is a point where the builder is saying to the consumer, "Yes, we'll provide you the conservation to a point where there's still a good payback." It's a diminishing return. The more insulation you get, you're not getting the same proportion of savings.

**The Chair:** Thank you very much. I know there are other questions and I regret we can't pursue them.

1100

**Mr Anthony Perruzza (Downsview):** On a point of order, Mr Chairman—

**The Chair:** May I just perhaps thank them and then we'll get to your point of order?

**Mr Perruzza:** Before you do that, my point is this: I know you're trying your darndest to be fair to all three parties, but I've been watching the clock and the allocation of time that you designated and allowed in questions and comments and speeches from both the Liberal and Conservative caucuses has spanned about 25 minutes. The time allocation to us as a caucus didn't exceed four both in questions and in comments.

**The Chair:** With respect, Mr Perruzza, we began the questions at a quarter to 11 and I allowed roughly, within a few seconds, five minutes for each party. I'm trying to keep it close to that. That will mean roughly one person from each party will be able to comment and/or question. I'm not keeping it right to the second, but close to that. Again, I just say with respect, we began the questioning at a quarter to 11.

Thank you very much, gentlemen, for coming. I know that representatives from the ministry are here as well, so there may be other questions they'll want to follow up with you.

**Mr Gary Wilson (Kingston and The Islands):** Just as a suggestion, maybe at the end of the presentation you could look at your watch and see how much time there is

and then publicly say and divide it, how much each, and then we can use it. If people want to make speeches—

**The Chair:** I can do that and that's why I have this here. This is why I kept every caucus to roughly five minutes in that last exchange.

**Mr Perruzza:** Mr Chairman, I know you're trying to be fair and I appreciate that.

URBAN DEVELOPMENT INSTITUTE OF ONTARIO,  
METROPOLITAN TORONTO  
APARTMENT BUILDERS ASSOCIATION

**The Chair:** If the members from the Urban Development Institute of Ontario would be good enough to present themselves, we can then begin with your presentation. I know, Mr Kells, you've sat on both sides of this committee room, so I can also add, welcome back.

**Mr Morley Kells:** Thank you kindly. It appears to have been a long time ago. My thanks for the opportunity to be here today. With me I have Chris Fillingham of Dunlop Farrow, architects. Chris is a member of the executive committee of UDI and, as I will mention in a few minutes, he's also the chairman of the Joint Construction Council, which is a combination of UDI and the Metropolitan Toronto Apartment Builders Association.

Just to get it on the record, if I may, UDI is a professional, non-profit organization comprising firms engaged in the development of lands in the province of Ontario. The institute's activities focus on promoting wise, efficient and productive urban growth and is an effective voice of industry at all levels of government. It also serves the industry as a forum for the exchange of knowledge, experience and research on land-use planning and development.

The Metropolitan Toronto Apartment Builders Association represents the interests of multiple-unit residential developer-builders in the greater Toronto area. Its role is to regulate regulations between employers and employees, promote industrial development, safety and efficiency and liaise with organizations and government.

Also, the MTABA administers the Joint Construction Council, a joint creation of the association and the Urban Development Institute, which is composed of industry building standards experts. The council reviews and recommends changes to building and fire codes and other related technical standards issues. Representatives from the Ontario New Home Warranty Program and the buildings branch of the Ministry of Housing are ex officio participants in the JCC. As you may appreciate, then, our organizations share a vital interest in Bill 112 and its detailed proposals to revise the building code.

Our submission has been written with the assistance of our membership, and in particular Karl Jaffary of Gowling, Strathy and Henderson. It is presented today with the confidence that it represents the collective interests of the land and building industry. If I may, to get it on the record, Mr Chairman, bear with me as I read through it. Joining me is Richard Lyall, the executive director of the Metropolitan Toronto Apartment Builders Association.

Major omission: Under the previous bill, provision was made for something called a certified professional program.

While the details had not been spelled out, the idea was that private sector professionals, architects and engineers, might be specially qualified as being capable of certifying that plans complied with the OBC. That concept is now being dropped.

While there were problems to be worked out in the concept, it had some very appealing features. Municipalities will never be able to staff building departments to meet high-volume rush periods, and they shouldn't try. Certified professionals would have shifted some of the functions on some permits to the private sector, permitted faster permit service in boom periods and saved the taxpayers from employing redundant employees in slow periods. This should be reconsidered.

**Plumbing responsibilities:** The responsibility for plumbing is being transferred into the code. There are a number of provisions permitting the government that is dealing with building permits, whether county or local municipality, to delegate plumbing inspection functions to a health unit, so approval of septic systems will probably remain where it now is for practical purposes.

Section 7 gives municipalities quite wide powers to regulate a number of things: classes of permits, forms of application, fees, times for notices, conditions for as-built plans and so forth. There may be some scope for local autonomy in some areas, but most of the matters should be subject to consistent, province-wide regulation. It makes no sense that foundation permits be available in only some municipalities or that the criteria as to when as-built drawings should be filed differ from place to place. Some chief building official will tell his council to require such drawings in all cases, adding perhaps \$500 to the cost of every home, while another council will never require them except in special circumstances.

There is no reason whatsoever why the times for giving notice cannot be uniform province-wide. Section 7 really means that for a builder to operate in the Metropolitan Toronto census area, he will have to acquire 20 or 30 local bylaws, keep them updated and keep them all on the shelf with the OBC.

Ontario went to a province-wide code for a number of reasons, but one of them was to ensure that builders and their professionals could operate in the same way everywhere. Section 7 is an unwarranted retreat from that principle. There should only be local bylaws if there is some good reason for them not being province-wide.

Subsection 8(3): The concept of conditional permits in subsection 8(3) was much discussed at the time of the previous bill. If such permits became the rule rather than the exception, they could cause chaos. If not overused, they will probably do little harm.

Clause 8(10)(d): This clause provides for the cancellation of a permit if it was issued in error. A permit can be cancelled if issued on "mistaken, false or incorrect information." Surely that covers the field. A building permit is a vital document relied on by builders, owners and mortgagees. If all the information filed on all the plans was correct, and people rely on that permit, where do they stand if the CBO decides he made an error that somehow goes beyond mistaken information?

Take the case of a permit issued contrary to the zoning bylaw because of an honest mistake in the building department, without any attempt to mislead by the applicant. It is clear that at present an innocent party who relies on a permit issued in the case of such an error has a claim for damages against the municipality, even though the municipality can stop the construction. This provision might call that damage claim into question and should be removed from the bill.

Section 9: This section permits the CBO to allow equivalents. This is similar to the power the commission has had in the past, and it was like having one committee of adjustment for the whole province. The change is desirable.

If an applicant does not like a ruling he gets, he can apply to the commission under section 24 or appeal under section 25 and let the judge refer it to the commission under subsection 25(4). It might be desirable to make all appeals from section 9 rulings go to the commission, with a further appeal to a judge after the technicalities have been ruled upon by the commission.

#### 1110

Section 10: This section provides for permits upon a change of use that would result in an increase in hazard as defined—really a change in major occupancy to a more hazardous one—even where no construction is proposed. That will create more paperwork and generally be a pain in the neck, but it is hard to argue against it. Someone using warehouse space as, say, a theatre should have to apply so that exiting and fire safety requirements for an assembly occupancy can be checked. Gosh, I don't know what that means, but I read it anyway.

Section 17: This section expands the concept of unsafe buildings and specifies the emergency powers of the CBO. The clarification is generally an improvement. Building officials have exercised these powers in the past and it is helpful to specify how this is to be done.

Section 25: This section echoes the present section 15, providing for appeals to the Ontario court. While the substance of the section is unchanged, the 20-day period for an appeal is almost impossible to comply with, particularly if the property owner enters into a negotiation with the department. A much-expanded time for appeal would be desirable.

Subsection 34(2): This section provides for regulations establishing standards of maintenance, occupancy and repair of existing buildings; if you will, an occupancy code. That is a fine idea. The problem is that such standards will exist side by side with all the existing occupancy standards municipalities pass under the Planning Act or, in the case of a number of cities including Toronto and Ottawa, under special legislation.

Section 35 provides that the act and the OBC supersede all municipal bylaws respecting the construction or the demolition of buildings. A parallel provision is to be found in the fire code. It is of prime importance that this legislation provide that upon adoption of an occupancy code, all municipal bylaws concerning maintenance, occupancy and repair be equally superseded. Otherwise, the



uniform code will achieve nothing and two sets of standards, probably conflicting, will be in place.

Finally, section 36 greatly increases fines, which hardly seems necessary. Most code enforcement is done by way of orders, and when they are ignored, by court injunctions. The most frequent offenders are small builders, often simple home owners with language problems. Building officials seem to have all the power they need to enforce the code. Any contravention of the code is an offence. A fine of \$25,000 for a first offence, \$50,000 for a second offence and double those figures for a corporation seem unnecessary and excessive.

Thank you for your indulgence, and with my two experts along by my side, we'll be happy to answer any questions.

**The Chair:** Thanks very much. We have about 15 minutes and we'll divide that time among the three parties. The rotation will begin with Mr Perruzza.

**Mr Perruzza:** I just want you to expand a little bit on the major omission and the certified professional program. I agree with you it's something that obviously has considerable merit and perhaps we should have a second look at it. I'd like to hear some of your comments with respect to that.

**Mr Kells:** Mr Member, it's a government bill, and I guess my question is, why has it been changed? We see it as a major omission because we saw in the past the discussion that was leading to consideration of this program had merit. We're simply here to point out that merit. In my mind, it's for the minister who is putting this bill through the House to answer why it has been removed. We just think it should be reconsidered, that's all.

**Mr Perruzza:** How can that be reintegrated in the bill, yet connecting the approval process to the municipality and ensuring—and I'd like to take off again on what Mrs Marland said yesterday—this role the chief building official has traditionally had as being sort of the overseer, the security for ratepayers and for residents, in his ability to ensure that everything is all applicable and laws are being conformed with?

**Mr Kells:** I think, as we mentioned here, we're suggesting that many municipalities at high-period times—and of course I don't think that's the case today—aren't able to keep up to the rush, and as a result you have a backlog. We're suggesting, as we always take the private, free enterprise side of things, that there are other people out there who could do these chores. I suspect that possibly the people who do those chores now at the municipality may have a different point of view.

I don't know the reasoning for the ruling party taking it out. We just thought it was an alternative that should be considered. We don't think it would jeopardize the work to be done in any way. It's no different than any kind of third-party attestation. If you're using experts, you're using experts and they can be challenged. I suspect it's just a way of sharing the load at peak times. But I can't speak for the municipalities or for the ruling party on why it's been removed.

**Mr Perruzza:** My second question relates to another section in the bill which offers chief building officials the

ability to issue conditional permits, provided they conform to all applicable law and sections 34 and 38 of the Planning Act. Could you expand on that a little bit for me. What does "applicable law" mean and what are sections 34 and 38 of the Planning Act?

**Mr Kells:** That's a good point. I make my living arguing about the merits of the Planning Act, but without having it in front of me, I certainly couldn't tell you what sections 34 and 38 are—I can tell you what section 3 is—so it's very difficult for me to comment. I hear you. If you really want me to take the question under advisement, we'd be happy to make a comment at a later time.

**Mr Perruzza:** I just thought maybe you'd have an opinion on that as well, because that's an area that concerns me substantially. In fact, we had another brief prepared and presented to us today by the chief building officials, and they have some concerns with that specific part of the act as well. I think they want some clarification on what "applicable law" means.

I can understand some of the liabilities that one would be subjugating oneself to if in fact that particular section wasn't as clear as perhaps it otherwise should be. I can understand the nervousness on behalf of chief building officials to simply assume that and to be given that kind of authority without clear enough guidance on how to proceed. Thank you for your comments.

**Mr Kells:** My only comment on that is that you have your experts in both the ministry and the Attorney General's office, so I assume that could be looked after to your satisfaction.

**The Chair:** We have just a minute or so. Mrs Harrington wanted to ask you a question.

**Ms Harrington:** Thank you very much, Mr Kells, for coming forward. Certainly your institute is very much involved with our ministry on this issue. Your comments were very thoughtful. Your direct suggestions here are very helpful as well, and we will be listening. My staff are here. They are hearing this, and I'm sure they're appreciating it.

I did want to comment about the plans review and inspection by designated architects and professional engineers program, or PRIDAPE, the certified professionals. Yes, it does have some merit. We've looked at the advantages and disadvantages of it and have decided that we do not want to proceed with it at this time. But that is not to say it never will be done. The public is concerned about the safeguard features of the person who is certifying.

I want to very quickly comment that you're concerned about the fine structure. Those are maximum fines; there is no minimum, so there can be much lower fines set down.

**Mr Kells:** I think if you want to make a point, you never mention the minimum; you try to always mention the maximum.

**Ms Harrington:** Yes, that's right. Our whole point of this, as you know, working with us, is to streamline, to help the industry get away from some of the red tape that always has been there. As you know, Dale Martin has been appointed to try to help in that process. Would you



comment on whether there are other ways this government could be helping out?

**Mr Kells:** I'm pleased that you alluded to Dale Martin, because the industry, and I can only speak for UDI, finds Dale to be most helpful, if you will, a delightful surprise. We don't want to damn him with too much praise, because we might affect his efficiency, but we certainly do feel that the government is on the right track with the appointment of a facilitator and we do feel that Dale is the right person for the job.

As far as streamlining goes, the building code is something that obviously our industry will live with, and in this case we're not unhappy with the proposed bill at all. We simply have had our people, in particular Karl Jaffary, who has spent a great deal of his professional career in the development area, look at it. These suggestions that I've had the pleasure of reading into the record today are really mostly Karl Jaffary's, although I did circulate them to all of our members for comment. Although we can't speak for the architects, as Chris will tell you, not everybody totally agrees with the thrust. But by and large, our members agree with the suggestions we've put forth.

1120

**Ms Harrington:** Thank you. I'd like to pass on to the other party.

**Ms Poole:** Thank you very much for your helpful comments today. I'd like to explore the certified professional program, which both you and the Ontario Home Builders' Association have suggested. It does have a number of very appealing factors to it. Quite frankly, I'm quite surprised that the parliamentary assistant would say, before we've even finished hearing from the witnesses, that the government's made up its mind and, "It's too bad; it's not going to change."

One of the concerns the Conservative critic talked about yesterday which I don't share is that she felt it was a conflict of interest to have certified professionals take on this job and that architects and engineers might be involved in preparing a project and then decertifying it.

**Mrs Marland:** I said it could be.

**Ms Poole:** It could be. Anyway, she did raise this issue. I don't see this as a problem, because I assume the way this would be set out is that only a limited number of architects and engineers would be chosen for the program by the chief building official. It wouldn't be every architect or every engineer, and there would be very stringent guidelines set up to protect against conflict of interest. Is that the way you would see the program working?

**Mr Kells:** Yes, Ms Poole. We see it that way—again, I'm speaking for UDI—and we don't share that concern about conflict of interest, basically because these people are professionals. It's no different from lawyers arguing on two sides of a case, depending who their client is, so it calls for a professional to do a professional job. We have faith in the professions involved in the building areas and we feel that, if called upon, given the rules that would be built into the program, it would more than safeguard the interests of the public.

**Ms Poole:** Thank you. I appreciate that answer.

The second matter you raised—which hasn't been raised today, but we've only heard three presentations—is regarding the appeals to the Ontario Court, that you felt the 20-day limitation was unrealistic. When I raised this point with the ministry yesterday, it didn't seem to think it was a concern. Would you like to elaborate on why you think it would be problematic to have this limit of 20 days?

**Mr Kells:** As I mentioned, our brief was written by Karl, who's a lawyer, and lawyers always opt for more time. I would suspect that, given his knowledge of the court system or given his knowledge of any kind of appeal process, 20 days is a very short period of time. I only have to remind you of how government works for you to understand the impact of a 20-day period. So, naturally, when you see 20 days, you're always asking for more. Even in the streamlining of development applications suggested by the government, the shortest period of time is 30 days, and that's just for an application to be processed; so I think 20 is probably cutting it fairly fine.

**Ms Poole:** Thank you. I think I have two minutes left. Mr Daigeler?

**Mr Hans Daigeler (Nepean):** You were here when the previous presenters gave their presentation. They made the point that one should not use the building code regulations process to try to implement major economic, social and environmental policies and goals. I'm just wondering whether you could comment on that from your perspective and how strongly you feel about changes to the building requirements happening through legislation rather than through the regulations.

**Mr Kells:** I always have a general concern, which I think people outside government do, about regulations or orders in council, that kind of government decision, but naturally, regulations are required to implement the details in any bill.

I'm afraid I don't necessarily share the concern of the Ontario Home Builders' Association. We have a concern always under things like the rent review act, where the regulations were more complicated and larger than the act itself and tended to blunt some of the impact of the act. Regulations quite often can be used to do any number of things that aren't necessarily debated before the passing of a bill. If that was the point the home builders were making, then I probably think it has merit.

But in general terms, our industry isn't particularly upset with the use of regulations. How on earth are we supposed to make a complicated bill work if you don't have regulations that spell out how it's to be implemented?

**The Chair:** Mrs Marland.

**Mrs Marland:** I think Mr Tilson would like to go first. We're going to share the time.

**Mr Tilson:** My question to you has to do with the competency of builders and protecting the public from builders, from disreputable work that's done, shoddy work. I'm not saying—don't start—

**Mr Kells:** No, I know. I'm certainly not taking it personally.

**Mr Tilson:** Every occupation has that, and the question is, how do we protect the public? I guess I'm specifically concerned with the remarks that you made about section 36 with the fines. I'd like to just emphasize to you that the quantum of those fines may or may not be too high, but you also have to look at the words that are tied in with those figures that your paper deletes, and that is that the words in the act refer to "the maximum penalty shall be" and "there shall be a fine of not more than."

Those words are traditional, I'm sure you are aware, in most provincial acts or any acts where penalties are set forward. The courts rarely impose those maximum fines unless there has been some blatant disregard for the process. A building official comes along and says, "You've got to do this," and the builder says, "To heck with you," and that comes out at a hearing.

You may want to comment on that, but my main question to you is a question that hasn't been dealt with either in the bill or in your remarks. I'm asking you because you're in the building game. It has to do with whether or not builders should be licensed in the same way that electricians and plumbers are licensed. Shoddy work is done in many cases, and who understands the mechanics of the lien act? Does the average guy understand it, unless he's working hand-in-hand with some lawyer? They don't know what it means, and holdbacks and all those funny things.

So money is paid for whatever reason. They may or may not have a holdback, and they go in and the work either isn't done or shoddy work is done. How can the public be protected? I guess my question is twofold, acknowledging those very restrictive words in the act. Second, do you have any thoughts as to whether or not builders should be licensed, as many other tradesmen are?

**Mr Kells:** I'll answer the licensing question first. I'm not necessarily a person who is looking for government direction or coddling on any number of areas. I don't know how you would go about licensing a builder unless, much like in a real estate business, you have to send him off to some kind of course so he fully understands, maybe, all the implications of being a builder.

Actually, a builder takes many forms. Some builders are really people who buy the land, develop it and hire a whole bunch of subcontractors. The quality of the work is subject to all these checks and balances, and that's why we're here today.

I doubt that we would have gotten the GTA built if you had to license builders. The good Italian tradespeople, the Portuguese who have been here for years and have done so much to build our area, probably would never have been able to get a licence if there was anything in place at that time.

You must remember that the home warranty program was brought on for the very reason that you've just mentioned: to protect the public against shoddy builders. This is the building code. You can apply the building code—

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**Mr Tilson:** That's not quite true, though. The home warranty program protects owners from substantial con-

struction defects. If there's shoddy workmanship or if they paint a wall pink and it should be white, they don't protect them against that sort of shoddy workmanship.

**Mr Kells:** I guess it's not my job to get into how many incidences of that take place; I can only maybe use a personal comment. My son just bought a home, and the home warranty program protected him admirably when it came to drainage and the kind of major things that happen in a house. Whether they put the fireplace in the right place or not, I'm not just too sure where that comes down.

To answer your questions, I'm against licensing of builders. If the government of the day wants to take that one on, I think it has more important things to do.

Secondly, when it comes to fines, I guess the court has to be the judge how high to place a fine. I have a cottage up at Wasaga Beach and I wish maybe we had had a stronger building code 20 years ago. Then some of that stuff up there wouldn't have gotten built the way it is.

I'm not here to argue against legislation. If you want my opinion, I do not believe that government should interfere in the lives of our citizens any more than necessary. I think there are enough laws in the books to do that right now.

**Mrs Marland:** I want to support a concern for builders, not necessarily licensing. What is really critical, and I say this to the parliamentary assistant, is that a builder can be decertified in one municipality and continue to build in another. When I was on council in Mississauga we had a blatant example. I'm not going to bother mentioning the name of the firm, Morley, but that firm was building in Thornhill. My residents from Mississauga were out placarding and picketing in Thornhill because of what their experience had been in Mississauga. We had no control against them building in another municipality under the existing provincial statutes.

Just to get back to this business of the certified professionals, I don't really like it when somebody else on the committee speaks for me, so I'm going to put on the record and ask you a question on my own behalf.

Yesterday I said that I was here to hear the arguments for and against certified professionals. Yesterday I said there may be a conflict of interest for those individuals, and I'd like to know how it would work. I think you heard the Ontario Home Builders' Association this morning say that the cost for bringing on certified professionals could be borne by the applicant: the builder or the developer or the individual home owner. Is that how you see that cost being borne?

I notice in your presentation this morning you talk about some of the functions on some permits, so you obviously don't see it as a global solution across the board. Are you suggesting that we would have to have specified which functions, what category of permits in the private sector, and do you agree that it would be borne by the applicant? Do you also agree that there would have to be the same kind of protection through assumption of liability if it went through a certified professional outside of the municipal staff, again the question of the protection of the public?



**Mr Kells:** It depends on whether or not the applicant has an option of using a certified professional or he must use the staff. I don't know if it's going to be a Russian roulette game if it ever got to that. I don't think that would ever be the case. I would suspect that the certified professional program would probably click in at busy times or some municipalities might opt for that, as opposed to having their own staff, depending on the size of the municipality.

As to costs, some way or other it'll be passed on to the applicant, and it's built into the cost of doing business. Whether it's increased the amount of building permits, all costs end up somewhere. Invariably, it's going to be on the backs of the applicants, because it's certainly not going to be absorbed by the municipality. As I mentioned to you, if it's passed on to the applicant, it's going to be passed on to the purchaser. That's just the way things are. There's no way to dodge that any more than our industry can dodge the fees that the Ministry of the Environment has already dropped on us lately, which are going to cost us thousands and thousands of dollars at a bad period of time.

**Mrs Marland:** What about liability?

**Mr Kells:** Liability probably could be built into the legislation so it is covered in some form. I'd leave that to the legal fraternity, but certainly it is a factor.

I suspect that I'd be just as happy with a certified professional as I would be with a building inspector who had possibly not been kept up to date as an outside professional. Liability is exactly what it means. The liability will eventually come back on municipalities if they issue a building permit, so they will have to protect themselves. No municipality will opt for some other form if it has any doubt that its liability is going to be impaired in any way or it's going to be making itself open to further liability.

**The Chair:** Thank you very much, gentlemen, for your presentation. I'm sure we'll have an opportunity to reflect on both your presentation and your answers to our questions. Thank you very much.

**Mr Kells:** It's been a pleasure.

#### FAIR RENTAL POLICY ORGANIZATION OF ONTARIO

**The Chair:** I'd now like to call upon Mr Philip Dewan, the president of the Fair Rental Policy Organization of Ontario, to come forward. Welcome to the committee. Please proceed.

**Mr Philip Dewan:** Thank you, Mr Chairman. I guess my presentation's going to be a little more limited than some of what you have heard beforehand.

As a lot of you know, the Fair Rental Policy Organization of Ontario is an organization representing landlords and owners and managers of residential rental accommodation. We do not represent builders. A lot of the sections of the building code, I think, are not relevant to our particular organization, or at least we don't have the expertise to comment on them, and some of the previous groups you've heard from cover those points off.

I'd like to restrict my focus to a single issue, and that is the particular provision in subsection 34(2) to allow the Lieutenant Governor in Council to "make regulations

establishing standards that existing buildings must meet even though no construction is proposed." Even within the ambit of that section, obviously people who build commercial buildings and single-family homes and so on may have different comments. I'm speaking simply from the residential apartment perspective.

From our point of view, the provisions in subsection 34(2) have a number of major problems. First, it duplicates existing standards at the municipal and provincial levels; second, it adds greater uncertainty in the operating environment for rental buildings at a time when things are already particularly difficult; third, it is being proposed at the worst possible time financially in terms of the ability of landlords to do any additional work given the retroactive application of Bill 4, which we're still trying to deal with, and the proclamation of the Rent Control Act last month. I want to deal very briefly with each of these items and then leave the majority of time for questions.

In terms of duplication, I think you're all aware that in more than 430 municipalities around the province, including essentially all of those of any significant size and covering well over 90% of all the rental stock, there are property standards bylaws which have been passed pursuant to the Planning Act or the individual municipal acts. Where municipalities do not have their own standard, the provincial minimum standard applies.

As an organization, we've heard no particular complaint that there are widespread deficiencies in these standards that need addressing by the implementation of a code for existing buildings. The Residential Rent Standards Board, before it was killed with the passage of Bill 121, went through a review of the provincial minimum standard, and although there were a variety of individual changes proposed, there was certainly no widespread disagreement with the overall level of the standard in place. So from our point of view there doesn't seem to be a particular clamour for a code for existing buildings, and we're not sure why there's any urgency in proceeding on this front at the moment.

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This ties into the second concern in terms of the uncertainty that would be added to the environment by the passage of subsection 34(2), and that has to do with what the subsection does not say. Essentially, it's just a regulation-making power which gives no indication of what the standards are that are to be prescribed.

Obviously, the building code itself is just a regulation under the Building Code Act. It's one thing to propose changes in specific aspects of the existing building code regulation; it's quite another to propose a whole new set of regulations which for the first time would apply to existing buildings, particularly without any requirement that the Legislature or the public be consulted on the particular regulations that are to be brought forward.

When Bill 112 is passed in its current form, there's going to be this constant threat hanging over landlords that there will be a new code for existing buildings brought forward with who knows what requirements and costs attached to it. That sort of uncertainty has to complicate the environment further.



The whole situation is exacerbated because of the limitations of Bill 121, the Rent Control Act. When the landlord has only a 3% allowance above the annual rent increase guideline to fund any required capital improvements, he's going to face a real dilemma when he has an unknown threat looming down the line.

For instance, if a landlord makes a decision to do a garage concrete repair for safety reasons, because of deterioration, that's likely going to use up the full 3% allowance for the next three years. What happens if one year later the code for existing buildings comes in with additional requirements which he then has no capacity to finance? They may be phased in, they may not. We have no way of knowing at this point. What we need is some certainty in the environment for landlords to be able to plan investments.

That ties in with the third point on timing. There could be no worse possible time for looking at any changes which will impose further costs on the rental housing sector. The industry is already reeling from the combined effects of the recession and the draconian provisions of Bill 121.

Over the next couple of years, owners of buildings are going to be faced with the necessity of trying to absorb huge losses as a result of capital expenditures that were caught in the Bill 4 freeze and will never fully be recovered; financial losses, which they had been allowed under Bill 51, that have now been wiped out completely; the threat of tenant applications to reduce rent on the ground of inadequate maintenance, a term which has never been defined and against which therefore there can be no assured defence in advance; forthcoming changes to the fire code, which I understand the government intends to bring out this fall, that will require retrofits costing an average of \$500 to \$600 per unit; mandatory recycling, which the Ministry of the Environment is proposing, that will have a real impact in municipalities where there's no municipal garbage collection and landlords have to contract privately for that service. I could go on. There's a host of other cost factors. Adding the further threat of an unknown code for existing buildings at this time, we think, is both unreasonable and unnecessary.

There's an inherent contradiction, which I think has been pointed out in some of the debates in the House, between Bill 112 and Bill 121 in that the former is seeking to encourage or rather require landlords to bring buildings up to a modern standard and Bill 121 effectively discourages landlords from investing money in capital expenditures. That's not just the view of the landlords.

The Ontario Association of Property Standards Officers, which represents the municipal inspectors who go out and actually look at the buildings and see what needs to be done, has described Bill 121 as "A monstrous piece of legislation which will cause both tenants and landlords alike additional costs, additional frustrations, without achieving the desired goals."

When we look at the Ontario housing stock today, we all know that over 65% of the apartments are 20 years old or more. They are essentially of a generation—at least one generation, in some cases more—removed from the standards of today's building code. Certainly studies like the conservation bylaw study for the city of Toronto have

shown that bringing these buildings up to the current code requirements, in effect retroactively imposing today's standards on old buildings, would cost massive amounts of money. Quite simply, that cannot be financed under the terms of Bill 121. We can't deal with Bill 112 in isolation. The two have to be looked at together, otherwise one bill negates the other.

Obviously, the government can go ahead and implement such a code if it chooses. This is not a new thing; the idea of an existing building code has been discussed for some time. There might even be some advantages in consolidating the various requirements among different municipal bylaws, although you can make the argument that there are sufficient differences between regions that variations are justified. However, we would suggest that providing blanket authorization for the cabinet to do whatever it wants in the future by way of regulation would be an abdication of your responsibility as legislators. Such a major reform deserves full consideration and debate.

Therefore, the Fair Rental Policy Organization of Ontario would propose that subsection 34(2) be deleted from the bill at this time. If the government wants to proceed in the direction of a code for existing buildings, which we're certainly willing to look at, a separate amending bill should be brought forward with the accompanying code in the form of draft regulations. That's the only way that all the parties are going to be able to evaluate what the costs and benefits will be, how it's going to impact on builders, over what period of time it can be phased in, all of the decisions and considerations that need to be looked at to be able to make a reasonable decision on the code.

Our bottom line is that if this is to be discussed, we would like to have it discussed as a separate issue, with the actual proposals before the House and the public, and not simply have a power put in whereby the government can by its own prerogative at some time come out with a code without that requirement for consultation.

Thank you for your attention. I'd be glad to answer any questions.

**The Chair:** Thank you very much, Mr Dewan. We'll begin with Mr Daigeler.

**Mr Daigeler:** Thank you for your presentation. I must say I sympathize greatly with the main point you're making. That's why I'd be rather interested to know your response as to why there seems to be such a contradiction between the position of your organization and that of the Urban Development Institute. I think you were here when the previous presenter spoke. I must say I was surprised to hear the reaction of the Urban Development Institute and I'd like to hear your comment in that regard.

**Mr Dewan:** Obviously, I can't speak for UDI, but there is a difference in who we represent. They represent builders and developers who are looking at starting from today, knowing what the requirements are. They may have disagreements with proposals regarding the provision for changes to the building code, but at least they'll know when they put the shovel in the ground what the requirements are.

Representing owners and managers of existing buildings that have been in place for 10, 20, 30 or 60 years, we're in a very different situation, facing the prospect of a code which may require us to come up to contemporary standards in some way. We don't have the luxury of making a decision as to whether or not to proceed with the project based on changes to the code or what changes to make in our architecture to try to bring costs down to accommodate that, all of the things that a new developer can do. We have an existing building and we're stuck with whatever comes out at that point in time, so it is a different situation.

**Mrs O'Neill:** I appreciate what you're saying. This is one of the greatest weaknesses in this particular bill. Mr Dewan, could you tell us your involvement in the development of regulations? Are you a participant in that at all at this point?

**Mr Dewan:** We have not been involved, and I can't honestly say we've gone forward trying to seek it out. This is not an issue that we've spent a lot of time on in the last two years, as you can imagine. There've been other things occupying our attention.

I'd like to stress that it's not necessarily something we object to; it's hard to know, without knowing what the standards are going to be. Obviously, there is a level of distrust with this government, but that's not even the point. With any government, with a change of this magnitude, where you're bringing in a new code in essence—not just an amendment to the existing code but a new code for buildings that have never been covered—that should be the subject of debate, not just one clause that gives you the power to go out and set that at some date.

The government may well say its intention is to circulate the draft code and have consultations and whatever; that's fine. If that's their intention, then they should have no objection to putting it in a separate bill to make sure that's absolutely clear and guaranteed.

**Mrs Marland:** Mr Dewan, perhaps you're aware that yesterday I served notice to this committee that unless we could have a satisfactory commitment from the parliamentary assistant on behalf of the minister, I would be tabling an amendment on behalf of our caucus to meet the concerns you've brought to us this morning in your brief.

We think it's totally illogical to apply new requirements through regulation on existing buildings. Of course, we're familiar with and very sympathetic about the history of Bill 4 and Bill 121 in terms of rental property in this province. Also, we don't have such a short memory that we don't remember that it was the Liberal government that imposed rent controls on buildings built after 1976.

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The whole issue of privately owned rental stock in this province is either going to make or break the solution for affordable housing for the 10 million people who live here. We are very concerned about this bill in its present wording, and I just want to assure you that we will fight to the best of our ability to try to have the government at least exempt or eliminate existing buildings from requirements and changes in the building code other than those that

pertain to health and safety, which I know you support as well.

**Mr Dewan:** I appreciate that. I wasn't aware that you tabled an amendment yesterday or indicated you would be tabling, but that's certainly appreciated.

I would hope personally that it would not be a fight with the government. It's not that there's a great moral issue at dispute here. If people want to talk about a code for existing buildings, I think everyone is quite willing to do that. It's just the matter that we want to make sure that the whole thing comes forward as a package for debate and not just leave it open for the possibility of it being dropped in some unknown fashion in the future.

**Mrs Marland:** We're not happy that it might be dealt with by regulation by the cabinet and not come to the public forum through the Legislature.

**Mr Tilson:** Just a brief question on that same point, and I certainly wouldn't get your hopes up. We all recall Mr Cooke's famous words as to how he hates landlords, and Ms Gigantes is probably worse than he is. We will try, certainly on this side, to pursue that issue.

I raised a question yesterday with the ministry staff on the whole process of consultation during amendments to regulations or introduction of new regulations. Obviously, in your business, if you haven't been involved in that process, you're going to have to start getting involved in that process, and I'd like to hear what knowledge you have as to the process. As I understand, there's a continuous process that proceeds. I don't know whether you're aware of what that is. As I understand it, there are committees and they're continually comparing it to the national building code and staff go out and hold seminars and there are different committees that are ongoing all the time.

My point yesterday was that notwithstanding that, the whole subject of why we're probably here is to enable the government to back up its position on graded lumber. They could have done it in committee of the whole, but we're going through a whole hearing process at tremendous expense to the taxpayer. But that's an example of how the consultation process of regulations has failed—the system, as I believe it, has failed.

I'd like to hear your comments on not only existing buildings but old buildings and the potential problems of their regulatory process, handing the whole system over to the bureaucrats and taking it out of the hands of the politicians.

**Mr Dewan:** It's obviously always been the case that the building code itself was amended by regulation, but this, as I say, is quite a different order of magnitude. There have been consultations going on with members of the industry. We as an organization have not been consulting on that issue, but I can't deny that there are members of the industry out there who have been speaking with the Ministry of Housing officials in terms of looking at proposals on standards, and that's as it should be.

Our view, though, is that once they come up with some set of draft standards—and I gather they're reasonably far along in that—that should be what comes forward for a much broader public discussion. In our industry alone



there are something in the order of 130,000 individual landlords, counting all those small people out there who have a duplex or a triplex. Obviously, their views are not necessarily the views that are being represented by the technical experts from a few firms who may have been talking with the government, and we'd like to make sure that there is the opportunity for everyone to hear about this before it becomes law, get their views in, speak to you as members representing their constituencies and have it all brought forward for a full debate.

Just by way of example, we went through a process with the Solicitor General's office on the fire code changes. In fairness to the government, not every ministry acts the same way. The Solicitor General, at least the ministry officials, were very cooperative in ensuring that all the industry views were heard. They did make changes which took it into account. They looked at the time lines. They considered the effect of Bill 121.

Although that was not a public consultation process in the same way, it was certainly something that took more reasonable account of some of the factors out there. We want to make sure there's the same opportunity for that kind of debate on these changes, which will be far more dramatically affecting landlords and at far greater cost than the changes being proposed under the fire code act.

**Ms Harrington:** Your basic concern, I believe, is that the standards for existing buildings are going to come about in some unknown fashion. That's your quote. I am going to ask Mr Wildish to elaborate a little bit and discuss that process for developing a code for existing buildings because it is important that it not, as you say, dropped upon you.

But first I wanted to ask you this question. Over the last while—many years, go back 10 years or so—the majority of landlords have not gone for above-guideline increases to maintain their buildings. Even when landlords in the past could pass through any costs associated with maintaining their building, many did not. In fact some, the very few, have very run-down buildings, and no matter what opportunity we gave them, say, in the past to pass through those costs, they did not.

I'm sure that your organization is concerned with keeping all rental housing stock in a good state and therefore would be trying to eliminate these poor buildings and poor managers of those buildings. Would you not think that a minimum code—this is not the same as the code for new buildings—for existing buildings would be of help to your organization?

**Mr Dewan:** I think in terms of those few bad landlords that you're talking about, if we look at some of the highly publicized cases in the west part of Toronto in the last while, every one of the deficiencies there is already in violation of the existing municipal standard. You're not proposing anything, as I understand it, that would clean up a problem that can't be cleaned up today. Those landlords are already in breach of the law and have numerous work orders outstanding. It's, in effect, the problem of the municipality deciding how to track down and what turns to

take. They have the power to go in and do the work and put it on the municipal tax rolls.

**Ms Harrington:** There is some desire for a common minimum standard that would be easily understood across the province.

**Mr Dewan:** Certainly I'm not saying we're opposed to a minimum standard. We may well be in total agreement when we see what finally comes out of the process. It's hard to say. We just want to know what we're getting into before you grant the authority to go ahead and do that.

**Ms Harrington:** Can I ask George to briefly comment on that process.

**Mr Wildish:** This follows from a point raised earlier this morning, and you may have been here, by the OHBA. They were talking about the need to be involved early, especially as the code takes on broader and broader scope, as we talked about it, for environment or pollution control or social matters of one kind or another, and you're raising the same thing here. You want to be involved early to make sure that nothing amiss comes into these things.

This is certainly a concept we recognized when we started broadening the whole regulatory process. We knew there would be far more interested groups wanting to have a share, and we're doing this more and more all the time. In fact, we're very proud, of course, of how we've done this, expanded the whole code development process.

In your particular case the same thing applies. Any development would be preceded by full consultation with all the groups, so policy papers of course would have to be made, distributed for discussion and groups set up to investigate them all thoroughly before anything would happen. I cannot tell you, because government has not decided in detail yet, what that process would be except to assure you that we, as staff people, have had to assure the government that we would build in processes of this kind that took account of interest groups and allow them to have full input into the procedure.

**Mr Dewan:** I guess I'd have two quick responses to that. First of all, it's very nice to have that consultation process, and we want to make sure as many groups as possible can participate. The vast majority of people in our industry, and I suspect it may apply in some others as well, are not represented by any group. We have about 1,000 members. Probably among all the landlord organizations, you might get up to 5,000 out of 130,000-odd landlords around the province. There are a lot of individual small people out there who are not going to hear about this or have any chance to have a say unless there's a much broader public debate about it and let the MPPs and everyone involved go back to their constituents and make sure they're aware of this.

Secondly, as a civil servant you can have a nice consultation plan out there and in place now. There's absolutely nothing to say the minister may not decide to cut that off at any time and say, "We're bringing in the code, we've decided we need it and here it is." The plan may never materialize. We just want some assurance there, and if that is the plan, then I don't know what would be lost on the government's part to give the assurance that it will



come forward with a separate piece of legislation so the whole thing can be debated at once.

If everyone in all of our industry groups and so on has been consulted and is in agreement, then there's not going to be any problem. No one will disagree and the legislation will sail through. It's there really just as protection and maybe it's seen as an unnecessary protection by some people, but you can understand there's a pretty fair degree of scepticism in the industry out there and we'd like as much assurance as possible.

**The Chair:** A brief last question. Mr Wilson.

**Mr Gary Wilson:** I see it's been referred to in questions, but I want to say how pleased I am to hear Mr Dewan's agreement that there are some good grounds for a code for existing buildings. I want to say, too, that I agree with him completely that the more discussion there is before something goes into effect, to make sure everybody is aware of what's going on, the more assurance there will be in the future that the regulations will be the proper ones.

Even with Bill 121 we had a lot of discussion. I heard from both tenants and landlords and there seemed to be agreement that what everybody wanted was a decent place to live, but how that's arranged or reached is where some disagreement arises. I'm hearing from tenants that Bill 121 appears to allow very generous arrangements for the upkeep of buildings and generally, as the parliamentary assistant mentioned, most increases in the past, under the guideline, haven't gone to the rent control agency, but there have been some very flagrant cases where there has been disagreement, that the increases have been too high.

Again, tenants are well aware, the ones who approached me, that buildings have to be maintained and that landlords have a fair claim on making sure that the increases are there. But when they're abused the problems arise, and that's what we're having to deal with.

**Mr Dewan:** I suggest again that you're going to get abuses under any law. You have standards in place in almost all those places now which could well deal with it. It's an enforcement issue, not a standards issue.

In terms of the ability of landlords, obviously there is a disagreement among landlords and tenants about the impact of Bill 121. I think the building code provisions are probably a much less politically controversial issue, but you have to look at it in tandem with the ability of owners to pay for the work.

I'd go back to the statements from the property standards office. These are not landlords speaking. In fact, in many cases landlords would think of them as their opponents in the sense that these are the guys who come in and force them to do work on their buildings, and they are saying that Bill 121 is unfair and monstrous, in their words. It's not just the biased view of landlords of that.

**The Chair:** Thank you very much for your presentation.

**Mr Dewan:** Thank you, Mr Chairman.

**The Chair:** This concludes the morning session of the committee. I remind members that we begin at 2 o'clock sharp with Mr Barry Rose, the president of the Ontario New Home Warranty Program.

The committee recessed at 1204.

## AFTERNOON SITTING

The committee resumed at 1401.

## ONTARIO NEW HOME WARRANTY PROGRAM

**The Chair:** I'd like to call this meeting of the standing committee on social development to order. We are discussing Bill 112, An Act to revise the Building Code Act. Our first presenter this afternoon is Mr Barry Rose, who's the president and registrar of the Ontario New Home Warranty Program. Mr Rose, welcome to the committee. We have half an hour. I know you've distributed some material to us. Please go ahead.

**Mr Barry Rose:** Thank you very much, Mr Chairman. The binder we've left with you is to give you some background on the warranty program. I suggest you might find it something useful to leave in your constituency office if you have any calls from frustrated home buyers or builders, because they both complain.

**The Chair:** As soon as I saw this, I knew the constituency people would be happy.

**Mr Rose:** Good. We're very thankful for the opportunity to appear before the committee to comment on Bill 112, An Act to revise the Ontario Building Code. I would like to commend the government of Ontario for its initiative and commitment in including legislation of this nature on a busy agenda which, especially in times like these, is filled with a host of high-priority issues.

From the Ontario New Home Warranty Program's perspective, the amendments addressing the administration and enforcement of the existing Building Code Act included in Bill 112 will improve both the calibre of building regulation and, we hope, the quality of housing in Ontario. Bill 112 is an important piece of legislation for the Ontario New Home Warranty Program as it has a direct impact on our business. To set the context for today's discussion, I'd like to begin by giving a quick overview of the warranty program.

The program was established in 1976 to protect consumers by administering and enforcing the Ontario New Home Warranties Plan Act to ensure that builders complied with the act's requirements. It's interesting that the first building code came out in 1974, and when the warranty program legislation came out at the end of 1976, the legislation in our act guaranteed that new home purchase in Ontario would conform with the Ontario Building Code. We have that statutory requirement to see that a home is built in accordance with the code.

Our mission, in general terms, is to ensure the quality of treatment throughout the process of purchasing a new home in Ontario and to encourage improvements in the quality of new residential housing in the province. Our goals are basically two-pronged. Consumer protection is the first and primary reason that the program was established and the second is builder education. We want to ensure that every new home purchaser in Ontario receives a high-quality product.

The Ontario New Home Warranty Program is the only mandatory warranty program in Canada. In fact there are

only two others that we know of in the world, one in the state of New Jersey and one in the state of Victoria, in Australia.

We are a private, non-profit organization. We are funded solely by builder registration, renewal and enrolment fees that are paid prior to the start of construction of a new house. We fund both our warranty claims and operating budgets from these fees. We don't cost the provincial taxpayer one cent.

The composition of our 14-member board of directors guarantees representation from our key stakeholders. Eight representatives come from the Ontario Home Builders' Association, two from the Consumers' Association of Canada and one each from the Ministry of Consumer and Commercial Relations, municipalities, mortgage lenders and mortgage insurers.

The warranty program offers new home buyers substantial warranty protection. In fact we provide the highest protection of any warranty program in Canada. Since our coverage was enhanced in 1990, consumers receive a total maximum warranty coverage of \$100,000 on each home enrolled in the program. The coverage is explained in detail in our 1992 Home Buyer's Guide to After Sales Service, which is included in your information package.

In addition to the warranty, we offer conciliation services between the builders and home buyers and the enforcement of work orders against the builder. We also produce a range of booklets and brochures for the new home buyer.

The warranty program offers builders a fair complaint handling process, conciliation services, technical training and joint-venture opportunities to improve construction methods.

In essence, the warranty program underwrites the Ontario Building Code Act and any revisions to it, as I mentioned earlier. A quick review of our claims experience demonstrates clearly what this means to our business.

The Ontario New Home Warranty Program has paid out over \$90 million in claims since 1976. From 1989 to 1991, claims paid totalled over \$53 million. That's over 50% of the total claims paid since the program's inception. While not all these claims can be attributed directly to building code infractions, claims relating to deposits, poor workmanship, improper materials and major structural defects are also included in these results; 25%, or over \$13 million, are code-related claims.

Taking the analysis one step further, the picture darkens when we see that the 1991 total claims paid out has escalated to over six times the amount paid out in 1986. Faced with these results, we have embarked on a strategy of prevention and partnership which, we believe, will both uphold the best interests of the consumer and effectively control and reduce our claims costs.

Municipalities and building officials are vital partners for four reasons:

Firstly, inspection is the early warning system which should identify many defects, particularly violations of the



Ontario Building Code, and ensure that they are rectified before they become warrantable claims.

Secondly, the responsibility for the enforcement of the Ontario Building Code rests solely with the municipalities.

Thirdly, our analysis of warranty program claims experienced by municipality indicates an uneven administration of the code across the province.

Fourthly, there are approximately 4,000 building officials across Ontario, compared with a total warranty program field staff complement of approximately 80.

Poor administration of the code hurts us, since the warranty program is liable for the claims which will inevitably arise. These claims can be substantial. For example, we have paid claims, some up to \$1 million, on condominium and freehold housing where there had been no municipal inspection completed whatsoever.

The Ontario Building Code was established to protect the consumer. The failure to deliver the Ontario Building Code at a high-quality level, however, severely threatens its prime objective, which we all share, of ensuring high-quality housing for Ontarians.

The Ontario New Home Warranty Program strongly supports Bill 112. As I said earlier, the powers and responsibilities outlined in the act will, I'm sure, increase the calibre of building regulation across Ontario. However, I question how effectively the administration of the Ontario Building Code can be improved without the establishment of a formal accountability and control framework which will monitor the effectiveness of every municipality in carrying out its inspection mandate.

#### 1410

The program has worked closely with the Ministry of Housing in developing these amendments to the code. I'm proud of the lead role the warranty program has taken in developing a partnership with the Ministry of Housing, the Ontario Building Officials Association, Ontario Hydro and the Ontario Home Builders' Association to produce a series of one-day workshops across Ontario to train building officials and other members of the residential building industry on the amendments to the Ontario Building Code. Entitled "Speaking In Code—Part 2," the series will build on the success of a similar series that we held two years ago.

In addition, we have undertaken an initiative to ensure that the residential building industry can deliver on the proposed changes to the code. If they are to be implemented, revisions must be practicable and affordable. Failure to meet these criteria will directly affect our claims costs. We have taken the lead in forming a partnership with eight stakeholders to develop a ventilation field demonstration to gather data on some of the proposed ventilation systems. Information gathered from these pilot projects is being sent to the Ministry of Housing for analysis.

We will continue to pursue aggressively partnerships which bring members of the residential building industry together. Mr Chairman, we are not a very big organization and we don't have very much money but we hope that by leveraging and working with partners between the group of us we can provide the residents of Ontario with good-quality homes.

I thank you very much.

**The Chair:** Thank you for your presentation and again for all of the informational material which, as you noted, our constituency assistants will be delighted to have. We'll move to questions.

**Ms Harrington:** Thank you very much for coming, Mr Rose. You talked about how your organization is not that big, but I think it's certainly an important organization. I understand that you have one of our former employees with you, Mr Aubrey Leblanc?

**Mr Rose:** Yes, the chief operating officer is Aubrey Leblanc. He would be here today, except he's scuba diving in the Cayman Islands.

**Ms Harrington:** Well, he was head of our buildings branch. Please say hello to him for me.

**Mr Rose:** I will indeed.

**The Chair:** Is he doing building code violations there?

**Mr Rose:** Right. He's a great addition to the program.

**Ms Harrington:** I had a couple of questions. On page 4 near the bottom you made a statement, "The failure to deliver the Ontario Building Code at a high-quality level...." I just didn't understand what you were meaning there.

**Mr Rose:** The building code of course is minimum standard. We're talking, I guess, not about the standard of the building code but the quality of the inspection and the competency of the people who are doing the inspecting, which is key to us in the discharge of the inspection. There are a number of cases where municipalities have not got the qualified people to do the work, and that unfortunately results in claims for us.

**Ms Harrington:** I see. Would this be a very small number of cases?

**Mr Rose:** Yes. To put it in perspective, most of our claims, as you can see, were paid during the boom years of 1987-88. Of course we paid those two or three years after, so our heavy claims come a year or two after.

There was a lot of building in communities that hadn't experienced large subdivisions; they hadn't experienced high-rise condominiums before. It was just that that's where the industry was moving. In the well-established municipalities in Ontario, basically the building inspection quality is absolutely supreme. It's when you start to move into rural areas with sophisticated high-rise buildings that you find the building inspectors just haven't been used to that type of building. They've never had it in their community. That's why we try and work with these people to improve their skills, as does the Ministry of Housing of course.

**Ms Harrington:** Certainly the Ministry of Housing, I imagine, would be working with you. I know we do put on courses, and probably courses together.

**Mr Rose:** Yes, we do. We joint-venture. In fact we've worked with the Ministry of Housing on the new construction code guide which took the building code and put it into a format where you started in the basement and finished



up on the roof. We've sold over 10,000 copies of that publication. In fact I think it would rate as one of the bestsellers in Canada. That was a joint venture between ourselves and the Ministry of Housing.

**Ms Harrington:** The act we're talking about right now is the first change in about 18 years. Do you feel it will improve the quality of new homes in Ontario?

**Mr Rose:** I think quality is one of those things that's rather difficult to perceive. We warrant quality. The building code meets standards. But I think what's happening with the code is that together with ourselves, it's helped to raise awareness of the need for quality.

Ventilation is a good example. The code provides for ventilation, yet what we have to ensure, with the Ministry of Housing, the industry itself and building officials, is that builders and their subtrades know how to put that ventilation system in and do it so it works properly.

We have the argument as to whether a job is quality or not, rather than the building official. Any improvement in materials and everything like that, which is part of this hearing, is going to have to improve quality in the long run, I would hope.

**Ms Harrington:** As you know—you've been involved with us on this for some time—the whole idea is for innovation in building materials, working ahead towards the future, making changes and being able to accommodate that in a quality manner.

I just wondered if there were any further questions from my colleagues.

**The Chair:** Mr Daigeler.

**Mr Daigeler:** In your presentation you mentioned that the claims paid out have escalated since 1986 sixfold. What are the reasons for that?

**Mr Rose:** The claims break down into three general areas. The first claim area is the deposit area, where the home owner puts up to \$20,000 down on a new home, and if the builder goes bankrupt or disappears, he can get that money refunded. Approximately a third of the claims we've paid out have been deposits. This represented somewhat of a problem for us, so in a number of cases now we will demand surety bonds or letters of credit from a builder who we feel may not be as financially secure.

**Mr Daigeler:** Is that an effect of the recession, or is that a general structure?

**Mr Rose:** That's just the way the business seems to go. In fact, some of our biggest claims don't seem to happen during a recession; they just seem to happen randomly. The deposit claims tend to be random. We can have them in a recession and we can have them in a boom time. The major structural claims we have, generally speaking, are very small. They're only \$8 million of \$90 million, so they don't represent a large amount.

The large body of claims is warranty. You can follow the building cycle, you can follow the boom-bust cycle and you can follow the warranty claims and track it. The enormous building of the 1986-1987-1988 period resulted in something like over \$22 million in warranty claims in

that two-year period, which we paid in 1990 and 1991, because there's a two- to three-year lag.

**Mr Daigeler:** Sorry to rush it a little bit, but we have a limited time to ask questions.

**Mr Rose:** That's okay.

**Mr Daigeler:** So the increase in claims really has nothing to do with people not following the building code properly; it's a reflection of boom times.

**Mr Rose:** Well, no. The trouble is that in boom times, municipalities don't get enough building inspectors. They've got subdivisions going on all over the place, so they can't get enough people hired. It's hard to get good people because they're out working in the industry. I think bricklaying has been the classic example, where you just couldn't get bricklayers. There's a shortage of materials, a shortage of qualified labour and a shortage of building officials.

In our program we ourselves were caught totally flat-footed. We had 80 people in 1986 at the start of the boom and it took us three years to catch up. Unfortunately, in our industry you staff up when you have the boom, when it's over you lay everybody off, and then it starts again and you're caught in the same bind.

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**Mr Daigeler:** One final question before I pass it on to my colleagues: If I understand you right, you're requesting the ministry to set up some sort of section that would help the municipalities enforce the building code. In other words, you're asking for more provincial civil servants.

**Mr Rose:** What we're suggesting is that there should be some accountability at the municipal level for the enforcement of the code, and the appropriate body to do that, I think, is the buildings branch of the Ministry of Housing. As I mentioned here, we have paid claims where there has been no municipal inspection. I mentioned a million dollar one. We had another one in eastern Ontario where we paid \$2.5 million and unfortunately each of the home owners had to pay another \$10,000 on top of it because our \$2.5 million was the maximum coverage we provide, and again, here it was lack of inspection.

To me, there should be some auditing and accountability. We are responsible for the Ontario New Home Warranties Plan Act and we're responsible to the Minister of Consumer and Commercial Relations to see that we enforce that act appropriately. I don't want to get into municipal and provincial politics.

**Mr Tilson:** I appreciate your comments with respect to your last thoughts on the uneven administration around the province. On the very issue of purchasers moving into new residences, some municipalities have things called occupancy permits and other municipalities have other things and they say, "You're not supposed to move in," but you know, they're out of their apartment or they're out of their house and they've got to move in.

Then they're having their little inspections with the builders to fill out the necessary forms to qualify for your warranty, and half the time they don't know what they're talking about because they're not clear as to what HUDAC

covers and what it doesn't cover. I find the whole process of individuals, innocent purchasers, moving into new homes very confusing because of the very point that you're raising. I'd like you to elaborate on that somewhat, perhaps following along with Mr Daigeler's questions, as to how that can be resolved.

**Mr Rose:** This is the process of when the new home buyer moves into the house and is asked to fill in a certificate of completion and possession, which they send in to the program.

**Mr Tilson:** At the same time they're doing that, there is the issue of dealing with municipalities. It goes along with the issue of quality of the inspections. Some are lax, some you have to have the i's dotted and the t's crossed, and some say, "Oh, well, you know, we'll deal with it down the line, and we're not going to issue an occupancy permit until we're satisfied," that something literally impossible is ready. Meanwhile, they have to move in.

**Mr Rose:** I know, and especially in an overheated building market where often the delivery is delayed, the consumer is even more nervous, the new home purchaser.

Our process that we're trying to do is to educate the consumer, and we also educate other people. You used the expression HUDAC. I don't know whether you were called to the bar prior to 1983 or not or whether you're a lawyer, but most lawyers who were called to the bar before 1983 call it HUDAC; those after 1983, when it was amended to the Ontario New Home Warranties Plan Act, call it new home warranty plan.

We try to educate not only consumers, but the legal profession, particularly the real estate bar. In most communities, we will go and speak to them and try to explain to them the protocols in closing, because they're the people who are acting, in most cases, on behalf of a new home purchaser. We're trying to make our forms a little simpler, a little easier to understand, and we're putting a lot of money into trying to educate the builder on how he should act during a closing. It's an educative process.

The interesting thing is that most builders registered with the program last three years and are gone. It's a highly volatile industry. We've only got, I suppose, of the 5,000 or 6,000 registered builders, maybe 1,500 who have been around over four years. You know, they sort of stay, and builders come, builders go, so you lose those people. We're spending more and more time on the legal profession, trying to get, as I mentioned, the real estate bar up to understanding the process, but it's a very difficult one.

**Mr Tilson:** One other question I have is that one of the questions that was raised this morning by, I believe, the Fair Rental Policy Organization of Ontario, but it applies, I guess, throughout all types of new construction, or old construction, renovations, is the broadening of the regulations section; in other words, regulations, we now look at two binders. I look at the generality of section 34 of the bill, which to me enables the provincial government to expand the regulations really quite widely. Instead of two binders now, we could be looking down the line at four or five binders. How do you feel that will affect you in the administration of your organization?

**Mr Rose:** I think we have a very good relationship with the Ministry of Housing and its officials and also with other people, like the home builders, everybody involved, because the consultative process has been very good. I'm quite sure they wouldn't zing a regulation in that they hadn't thoroughly consulted with everybody on. For example, we probably have the best data in Ontario in the residential housing industry on defects and problems, just because of our claims database.

We've become a very important partner with them in saying: "If you're going to do this, here is our experience. We'd suggest maybe you modify it." There are a number of areas that we work and consult with and I think this is the process. Quite frankly, I don't think the Ministry of Housing ever would, but if they just zinged out a regulation that the rest of the industry thought was impossible, they'd hear about it. But they haven't; they've been very prudent and careful.

**Mr Tilson:** I believe the regulations will be increased substantially, and obviously I'm making a political statement. That's my privilege. But I am concerned that I understand your organization. You've got me afraid even to say it any more. Your organization deals strictly with major structural defects. Because of the broadening of the regulations, will you perhaps be forced to broaden what you will cover?

**Mr Rose:** We cover major structural defects but we also cover what we call warranty, and warranty is quality of workmanship.

**Mr Tilson:** Only on major structural defects.

**Mr Rose:** No, any warranty item. The first year of the warranty covers any item with respect to a bad paint job, poor carpet laying, squeaky floors, a whole range of things that I'm sure you know go wrong with a new home. Those are all covered under the first-year warranty.

The second-year warranty covers any penetration of water into the basement or anything in the envelope of the building that allows the weather or the elements to get in.

The major structural defect, which lasts for seven years, is if the building basically becomes uninhabitable or unsafe. We've paid out far more money on warranty than we have on any other of our major structural defects or our deposit claims.

**Mr Tilson:** So you don't feel this will result in added cost to your administration.

**Mr Rose:** One would hope not. One hopes that these changes are made to improve housing. I guess ventilation improves the quality of housing because you've got better air in the house, for example. Usually, we will argue the cost implications of a regulation when we're talking with the ministry, with the home builders and with the other stakeholders, and hydro as well. There is a classic example of full basement insulation. We took the position with respect to full basement insulation that it really wasn't on and it would be costly because we haven't perfected the problem of avoiding leaky basements. If we lick the problem of leaky basements, full basement insulation will be great, but until that day it's going to be very expensive for everyone.



**The Chair:** Mr White, we have time for one short question.

**Mr Drummond White (Durham Centre):** I just had a couple of questions which unfortunately are not related to the entire building code but rather to your program. I notice in your booklet entitled the Home Buyer's Guide to After-Sales Service, you have ratings for a number of the builders. You have a disclaimer, I'm sure, in that saying that these ratings aren't updated to the week or the month or whatever.

**Mr Rose:** They're good to the date of publication. They end December 31 of the year the guide is produced. You could have somebody who would be rated as excellent December 31, 1991, and on January 2, I could issue a notice of proposal to revoke the builder's licence for something that may have happened.

That's why in our instructions and in our guidance to new home buyers who are using this book is to not only check with the warranty program, but I think even more important if you're buying a new home, check with somebody who's already bought a house from that person. They're better than we are, they're better than anybody, because they can really tell you how it is.

This, as we say, is a guide, and it's an initiative that we took at a great deal of risk. People thought we were crazy, quite frankly. Other warranty programs throughout the world have never had the nerve to do this, but we did it and we think it's part our consumer education. The other thing it's done is it has disciplined the builders.

**Mr White:** It certainly should. I'm sure the advice you just mentioned is something you relay to buyers, simply that they should check with other present owners of homes that have been constructed by that company.

In my area in Whitby there were quite a number of complaints about one particular builder or one particular subdivision. Would one be able to get updated information on that? Would that sort of anecdotal information be available from the local Whitby office?

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**Mr Rose:** If you have a builder as a member in Whitby, you should talk to the regional manager. What I've done with many local members is I've gone out to lunch with them and talked about the particular problem. I don't know whether it's your riding, but we had a major structural defect in a number of heat exchangers in furnaces, something like 400 or 500 of them. It was a faulty heat exchanger in the furnaces and we gave everybody a cash allowance to replace not only the heat exchanger but the furnace. That's the sort of protection the consumer gets.

If you have a concern with a particular building and it's in your constituency, I think the person to talk to is our regional manager for Whitby, Mr Mark Lecasse, who would be more than willing to meet with you.

**Mr White:** Thank you very much, Mr Rose.

**The Chair:** Thank you very much for your presentation. I think all of us who were around here in 1987 still have the trauma of the housing boom of that time. It is certainly where I came to learn about the Ontario New

Home Warranty Program when meeting with people from your operation. All I can say is that while I hope the housing market gets stronger, I hope we never have to go through that again. We spent a lot of our time out in subdivisions getting to know about basements and paint jobs and all that good stuff. But we thank you very much for your presentation and for the material.

**Mr Rose:** Thank you very much for the opportunity.

#### LARGE MUNICIPALITIES CHIEF BUILDING OFFICIALS

**The Chair:** I'd now like to call the representatives of the Large Municipalities Chief Building Officials group, LMCBO, if they would take their seats and please introduce themselves to us and for Hansard.

**Ms Terry Dalkowski:** Good afternoon, Mr Chairman and members of the committee. My name is Terry Dalkowski. I'm the director of building development and chief building official for the city of Nepean. I'm also the chairman of the executive committee of LMCBO.

On behalf of the LMCBO, the Large Municipalities Chief Building Officials group, we thank the committee for the opportunity to express our views on Bill 112. The LMCBO group represents 38 municipalities in Ontario with populations in excess of 50,000 people. Our chief building officials oversee building code enforcement of more than 85% of all building construction in Ontario.

Our group is generally in support of Bill 112, which is very similar to Bill 103, which was introduced for first reading by the previous government. In 1990, the majority of our municipalities passed council resolutions supporting Bill 103 and sent them along to the then Minister of Housing.

Within the last few years, the issue of building permit fees and their relationship to the level of service provided has been discussed at workshops of the LMCBO group. These discussions led to a resolution at the last workshop in May 1992, which requested the Ministry of Housing to amend the Building Code Act to make it clear that building permit fees are to be used for the administration and enforcement of the building code and applicable laws in a manner similar to section 69 of the Planning Act for processing applications under the said act.

In light of the recent second reading of Bill 112, we felt it most appropriate to bring this matter before the committee. It is an issue that the LMCBO group feels quite strongly about. We are prepared today to present our recommendations to this committee for your consideration and, hopefully, concurrence.

Attending with me today is Mr Rocky Cerminara, P Eng, chief building official for the city of London, who will speak on the issue in more detail.

**Mr Rocky Cerminara:** Our group is recommending that clause 7(c) of Bill 112 be amended by adding after the word "thereof":

"and such fees shall be designed and used to meet only the anticipated cost to the municipality for the administration and enforcement of the Building Code Act and regulations, including any applicable law."



Purpose of amendment: Going back to when the first building code was enacted in 1974, this section has not changed in all of those 18 years. In the existing act it's clause 5(2)(c), and in the new Bill 112 it is clause 7(c).

We believed as a group, and I'm sure most people did, that the particular section in the existing code implied that the fees paid were to be used for the administration and enforcement of the act and regulations. We feel there must be a correlation between fees collected and the level of service provided. Only in this way can the Ontario Building Code be applied with uniformity and consistency across the province.

In recent years, there has been a growing concern among the members of our group regarding the level of service provided and the building permit fees collected. A number of municipalities are setting fees based on whatever the market will bear, and surplus funds are collected and used for other general municipal purposes. They are not put into reserve funds and earmarked for the administration and enforcement of the building code.

It is the opinion of our group that the intent of the Legislature in 1974 was to provide not only for uniform building regulations but also for uniform enforcement across the province. Concern, in 1990 I believe, has also been expressed by the Ministry of Housing on the level of service and enforcement provided by some municipalities. The ministry has also stated that the fees authorized by clause 5(2)(c) of the existing act and its relationship to the cost of providing services under the act is somewhat unclear. We believe it is time that the legislation is amended to make it clear to all municipalities what building permit fees are to be used for.

We'd like to provide some background on user fees or building permit fees. Most municipalities treat building permit fees as a form of user fee. There was a report entitled *The Scope and Application of User Charges in Municipal Governments*, by Mark Sproule-Jones and John White. This report was printed, by the way, in the November-December 1989 issue of the *Canadian Tax Journal*. It states that from 1951 to 1981 user charges, as a percentage of total revenue, increased from 2% to 20% in Canadian municipalities.

The report also dealt with the results of a survey of 27 southern Ontario municipalities. Some of the findings in the report are summarized as follows:

1. User charges are an acknowledged form of public finance for municipal governments.

2. User charges can be constructed on at least three types of pricing principles: marginal cost pricing, average cost pricing and "profit" or revenue maximization.

3. All 27 municipalities in the survey indicated that they used average cost-pricing principles. Average cost pricing sets charges by dividing the total costs of providing a service or quantity of goods by the number of units of service or quantity of goods actually produced.

4. Revenue from user charges was not automatically earmarked for the program or function in question. Revenue was paid into general operating accounts. This process does not motivate public servants to adjust user charges to alter the quality and quantity of services in question and

may lead citizens who pay user charges to perceive the charges as another type of consumption tax used by the municipality to raise revenue, rather than enhancing the efficiency of municipal service delivery.

5. There was considerable variation in the types of costs municipalities used in the costing methods. Of the 27 surveyed, all based their costs on general operating costs; however, 15 included overhead costs and 13 included capital costs.

The point of this background is to demonstrate that user fees have become an important source of revenue for municipalities. This point again was highlighted in 1991 in a report entitled the *Report of the Advisory Committee to the Minister of Municipal Affairs on the Provincial-Municipal Financial Relationship*. The advisory committee made the following recommendations:

"Municipalities should be given the authority for more flexible use of user fees to mitigate costs imposed on municipalities.

"When municipalities establish user fees, the following conditions should be borne in mind: the benefits are quantifiable and have little spillovers; charges should consider the consumer's ability to do without the service or good; and charges should be designed to maximize accountability.

"Municipalities should be given the flexibility to fully recover the cost of administration, issuance and enforcement through licence fees."

The above recommendations, in our opinion, support our position that user fees should recover only the cost of providing the service and be designed to maximize accountability, not maximize profit.

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I understand that recently the Ministry of Municipal Affairs issued a discussion paper on licence fees, based on the Brantford model. The basic statement made in this discussion paper is that licence fees should be based on the actual cost of processing the licence application, not just to generate revenue.

With respect to the building permit fee, the authority is under clause 5(2)(c), as we mentioned earlier. It clearly states that a municipality may pass bylaws "requiring the payment of fees on applications for and issuance of permits and prescribing the amounts thereof."

The Building Code Act allows a municipality to recover the cost of carrying out its mandatory responsibility, as prescribed by subsection 3(1), which states: "The council of each municipality is responsible for the enforcement of this act in the municipality." This responsibility, which can be referred to as a service, is unlike many others. The municipality provides on a voluntary basis for which it chooses to charge user fees.

The Ministry of Housing was requested in 1991 to comment on the relationship between building permit fees and the cost of enforcement of the code, ie, issuing permits, examining drawings and inspection of construction etc. Its complete reply is attached as appendix A.

Essentially, the reply can be summed up in one of their statements, which is: "The question of whether fees authorized in clause 5(2)(c) of the act need be related to

the municipality's actual or perceived costs of providing services under the act is somewhat unclear."

This has come about as the result of a number of court cases. In one court case, they say there is a relationship between the fee that is collected and what it is to be used for such as must be reasonable and bear some relationship to the cost of inspecting and approving plans. The fee must not be for the purpose of raising general revenue for the municipality. On the other hand, another court case says there are no limitations and the municipality can do what it will with the money.

It is the position of our group that this question can be resolved after 18 years by amending Bill 112 to make it consistent with what the Planning Act prescribes. I would mention that the Planning Act in section 69 states:

"The council of a municipality, by bylaw, and a planning board, by resolution, may prescribe a tariff of fees for the processing of applications made in respect of planning matters, which tariff shall be designed to meet only the anticipated cost to the municipality or to a committee of adjustment or land division committee constituted by the council of the municipality or to the planning board in respect of the processing of each type of application provided for in the tariff."

If we have time I'd like to add some more on service levels, because we believe the two issues are totally related.

The Ministry of Housing in 1990 in a buildings branch newsletter—and we have quoted three of their paragraphs. Given the time constraints, I will read only the second paragraph.

"Most municipalities carry out their responsibilities in a thorough and competent manner. Building permit fees are often directly related to the level of service and inspection provided. However, in some municipalities, building code enforcement functions including plans review and permit issuance are not as efficient as they could be. This may result in long delays in obtaining building permits and in poor inspection practices. Also, there is often a major imbalance between building permit fees collected and funds expended on code enforcement, with the surplus funds being used for other general municipal purposes."

We believe the cost of the service is directly related to the quality of the service provided. From the builder's point of view, good service is often related to quick processing of permits and timely inspections of construction. However, the municipality has a responsibility to ensure not only reasonable response times but also accurate plan examination and quality inspections so that subsequent purchasers are not left with substandard construction. It is difficult at times to find the right balance between speed and quality.

There are no current provincial standards by which municipalities may evaluate their performance of processing permits and conducting inspections. A study was funded by the Ministry of Housing, as I've mentioned in my paper. It is a first step in developing or establishing reasonable levels of service in the province, and if it were completed and distributed it would be of some assistance to our municipalities.

In conclusion, the proposed amendment to Bill 112 will not, in itself, result in an improved uniform enforcement of the building code. It will, however, provide a correlation between building permit fees and levels of service, which should motivate municipalities into delivering a more efficient and accountable service to the users and the public in general.

**The Chair:** Thank you very much for your presentation and for the explanation of the proposed amendment. We'll begin questioning with Mr Tilson.

**Mr Tilson:** I found your comments on user fees particularly interesting. It reminds me of the debate that was done in the province in the past on lot levies, as to whether user fees should be part of lot levies. I don't know, but it's a very difficult subject to cover all the angles. I appreciate your thoughts, although you've certainly confirmed a theme that seems to be developing from the delegations that have been coming to us, thus far at least. You talk about the cost being related to the level or quality of service, and that theme seems to be developing from delegations that have been coming to us thus far, that the quality of service of inspections may differ across the province, depending on the size of a municipality or for other various reasons. You might elaborate on that.

**Mr Cerminara:** We believe that most municipalities take their responsibilities under the Building Code Act seriously. However, there are some municipalities where our members have brought this concern to us, that when construction is booming and millions of dollars are coming in in user fees, going into general surplus, they're finding it difficult to get the staff to do the proper job. There are municipalities around the Toronto area, for instance, where you can wait six weeks to two months for a building permit because they're just jammed up and they can't get any help.

I know that in the London area if I had people waiting for more than two weeks I'd be lynched. Our standard is completely different in London. I can also add that our board of control has a policy on user fees. They clearly state that fees should not be designed to create profit. This is our official policy. However, even in the city of London sometimes we tend to forget our own policies and the money comes in handy to cover off other expenses of the municipality.

**Mr Tilson:** If I could ask a further question, we appear to be setting forth more and more regulations. I guess I'm getting back to your comments on the quality of service. The need to have more and more qualified building inspectors across this province is becoming more and more necessary simply to meet the increased regulations being put forward by the province. Is the province getting into areas that perhaps it shouldn't be getting into?

**Mr Cerminara:** Is that a question directed at me?

**Mr Tilson:** That is a question directed at you, sir.

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**Mr Cerminara:** All right. I'm not necessarily speaking for the group now, because we haven't posed that question, but speaking for myself, I think with the province



getting into the enforcement of building codes in 1974 by saying, at the pleading of the construction industries and even at the pleading of building officials, that there will be one uniform code across the province, it took on a responsibility.

It's not good enough to say in an act: "Here's a uniform building code. Okay, municipalities, enforce it." I think you have to follow through and make sure they are enforcing it, given the means to do so. And they have. They said you can charge user fees and permit fees. But make sure that they're not just raking in the money and not doing the job. I think there's a responsibility. If you're going to go in it halfway, you've got to go in it all the way or don't go in it at all.

**Mr Tilson:** One final question has to do with your initial comments on the amendment that you're proposing for clause 7(c). Just to repeat a concern that was expressed this morning—I don't know whether you heard it or whether you've read the presentation given by the Toronto Area Chief Building Officials Committee. They made comments on the topic of applicable law, which you've referred to. The question still seems to be up in the air from the ministry as to what in the world that means.

I will just quote the paragraph I'd like you to comment on:

"At present, the chief building officials are expected to make decisions on a case-by-case basis. These decisions are made by relying on custom, practices followed by others, court decisions, familiarity with the law, Ministry of Housing directives and other considerations. It is expected that certain current developments in environmental issues and decisions made by the courts will no doubt add to the confusion that exists."

That does not seem to be taken into consideration in your proposed amendment.

**Mr Cerminara:** If I can answer that this way: Right now, the building code does state, and I believe it's section 6, that we have to take into account applicable law. What we have asked the ministry to do, because there are countless acts and regulations which are considered or could be considered by a judge to be applicable law, is to provide us a list. In fact, I was provided such a list a few weeks ago from the ministry. It is only a draft list that their legal department has prepared.

When we say "applicable law"—let's say, for instance, zoning bylaws. That's applicable law. The municipalities enforce zoning bylaws. We're worried more about the provincial laws such as laws dealing with conservation authorities or the Cemeteries Act or nursing homes. We'd like to have a complete list so that we can give it to our plan examiners and say, "Okay, when you get an application for a nursing home, make sure that the provincial authorities have reviewed it, because it's one of their babies to look at," and so forth with any of the others.

People think of it as a big millstone, but the idea is just to know what is applicable law and then direct the applicant to go get his approval by the other authority. It's more a case of that than us being familiar with every law that

affects construction, because I doubt whether we would ever, in our lifetime, know it all.

**Mr Tilson:** Those comments are very useful. Thank you.

**Ms Harrington:** Thank you for coming. I was also going to say that your comments with regard to the applicable law are most helpful also for our staff who are listening.

I wanted to thank you for bringing forward this one particular concern you have with regard to the user fee increases and the resolution that you supported last May. I have asked my staff, Mr Wildish, who's with me up here, if that was brought to the attention of the ministry between May and now and, from what I understand, we are not aware of it. Certainly, I think we have to work together. If there are resolutions like that, I would like you to bring them and talk with our staff directly about that.

Just to answer you at this particular time, we will have a look at this, but you're drawing a parallel with the Planning Act as to how it would operate. Certainly that's an interesting way of looking at it and a legitimate way, but all I can say at this point is that when we get into the area of the municipalities, we would have to go through the Ministry of Municipal Affairs and speak with it first before we could comment on what direction to go with this.

But I do want to thank you for bringing this forward and urge you to also work with our staff. I'm sure that maybe some of them could go to your conferences and have direct access to what you're doing.

**Ms Dalkowski:** In actual fact, a representative of staff of the Ministry of Housing does sit on our executive committee of LMCBO and the Ministry of Housing has many of its staff persons at our workshops and provides all kinds of technical and administrative support for our workshops.

**Ms Harrington:** I'm sorry then that this item was not brought to our attention before now.

**Mr Cerminara:** I must apologize for that, because it was simply a matter of timing. Although your representatives were there, they were expecting us to send that resolution to the Minister of Housing, and we were intending to, and then we found out in late June it had got second reading and there were going to be public meetings, so we decided to come here, but with their knowledge.

**Ms Poole:** Thank you very much for your presentation today. It was an issue we haven't grappled with yet, and it was particularly helpful because you've not only brought the problem to us, you've also brought a possible solution with your suggestion.

You've mentioned in your brief the Ministry of Housing newsletter of February 1990 which touches on the issue, and also you've attached as appendix A a letter from the Ministry of Housing regarding the issue and the case law on it. What kind of response have you received from the Ministry of Housing? Is it your impression that the ministry feels this is something that should be left to municipal discretion, or has there been an indication of willingness by the Ministry of Housing to take a look at this issue and ensure uniformity of the fees from building permits and their use?



**Mr Cerminara:** I don't believe I can adequately speak for the Ministry of Housing. I know their representatives have been supportive of such an action. Their newsletter basically cries out for the same thing. But with respect to appointed officials we deal with, and then the political level, I don't know how one gets transferred to the other and what the government feels about it as an official position.

**Ms Poole:** You actually have not received an official position from the ministry as to whether it would support this amendment.

**Mr Cerminara:** No.

**Ms Poole:** I wonder if it would be in order, Mr Chair, to ask the parliamentary assistant if this is under consideration by the government.

**Ms Harrington:** As I just pointed out in our discussion, this is the first time it has been brought forward. The more lead time we can get, certainly the better, to pass this through all our officials.

**Ms Poole:** It was actually brought forward at least on September 27, 1991, when the Ministry of Housing wrote to the city of London about it, so I would be surprised if ministry officials are not aware of the issue, nor indeed a potential solution.

**Ms Harrington:** What I've just indicated is that it is now brought to my attention and it is under consideration, or at least we will have a look at it, is what I'm saying.

**Mr Tilson:** Careful, Margaret.

**Ms Harrington:** Thank you.

**The Chair:** I think the answer is that this is now being considered.

I want to thank you very much for your presentation and for the material you've presented.

**Ms Dalkowski:** Thank you.

#### CANADIAN BAR ASSOCIATION—ONTARIO

**The Chair:** I would now call upon the representatives of the Canadian Bar Association, the Ontario chapter, if you would come forward, please, and perhaps I'll let each of you introduce yourself and then please proceed with your presentation. Welcome to the committee.

**Ms Erica James:** I'm Erica James and I'm the president of the Canadian Bar Association—Ontario, and I have with me today Virginia MacLean and Irvin Schachter, who have authored the presentation today to you, together with their committee.

For nearly 80 years, the Canadian Bar Association has been the voice of the legal profession in Canada. The Ontario branch represents a membership of about 16,000 lawyers, judges and law students from around the province of Ontario. The objectives of the Canadian Bar Association include the promotion of improvements in the law, legal research, law reform and improvement of public and social policy. In pursuance of these objectives, our association examines the current issues, including proposed legislation and its effect on the legal systems and the public.

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Our association achieves its goals through the extraordinary efforts of volunteer members of our association. We take pride in the representative input, the thoughtful analysis and internal challenges that are given to every submission that we put forward.

We're in somewhat of a unique position because our members are people who work both to interpret and use the legislation and those whose duty it is to enforce it. We aim to achieve a balance in these perspectives in reaching the ultimate consensus that comes before you in the form of this submission. I'm pleased to tell you that the representatives who are attending with me today represent both those camps.

**Ms Virginia MacLean:** The committee that was struck to deal with this matter was a subcommittee of the municipal law section of the Canadian bar, and Mr Schachter and I were that subcommittee. We come from varying backgrounds. Mr Schachter works for a municipality. I'm in private practice but I formerly worked for a municipality. We're both very familiar with the Building Code Act and have had practical, hands-on experience dealing with it.

This committee had made earlier comments on Bill 103, and those comments are appended to our presentation. Rather than going through that particular document, we propose to briefly go through our comments where we have a difference of opinion.

We have stated in our latest report that we support most of the sections which have been enacted in Bill 112. We've highlighted the sections we're particularly supportive of, but we do find a number of sections which have not been changed and are in a form in which we have a difference of opinion. Those are the issues we'd like to address solely. It starts on page 3. Perhaps what we can do is that Mr Schachter will deal with certain of those sections and he will embellish on what appears before you, and I will deal with other ones. I will turn it over to Mr Schachter.

**Mr Irvin Schachter:** One of the areas of difficulty that we noted when we reviewed Bill 112 was the question of the "applicable law" definition. We noted in Bill 103 that a definition had been set out and it's contained at the bottom of page 3 of the submission. That was a definition contained in Bill 103. We note that definition did not carry through into Bill 112.

As you may have heard previously, there has been difficulty with the fact that "applicable" has not been defined. In large part there has been definition of it through case law. The courts have made decisions as time has gone on with regard to what they would, in various circumstances, consider applicable law.

It is our position that the definition that was set out in Bill 103 is probably a better definition than is contained in the present bill in its present format. The reason we say that is that it does give a chief building official some area to go to, something to look at in terms of trying to determine what is applicable law in any given circumstance. We suggest for that reason that the committee seriously review

whether it would like to bring the definition back that was contained in the previous Bill 103.

**Ms MacLean:** Jumping over to non-compellability in civil suits, this provision exists in the current Building Code Act. I don't know whether it's been brought to your attention before or not, but it's a section under which no inspector is compellable in a court, and there is no reference to that section. The reason we're supportive of including that in the current bill is that it's a means of ensuring that municipal staff are not tied up as expert witnesses in civil suits.

The question of whether that means the inspector involved has to attend at court, in my experience, has been answered several times by the courts. They said, "Yes, if you are given a subpoena to attend at the court, you must attend, but you do not have to give evidence until I direct you to give that evidence." What in fact the section does is to discourage lawyers from taking building inspectors as their experts, because they don't know what kind of answer they're going to get and they don't know whether that inspector will have to give the evidence. So it's a serious omission, we would respectfully submit, from the existing building code and we'd suggest it be reinserted into Bill 112.

**Mr Schachter:** One of the difficulties in paraphrasing and not reading is one sometimes misses points one wishes to raise. Having said that, I'd like to go back to applicable law for a moment on a point I wish to deal with.

Subsection 8(3) of Bill 112 relates to the issuance of conditional permits. One of the difficulties we appear to have discovered was that while "applicable law" is defined as it relates to conditional permits, it isn't defined as it relates to permits that are not conditional. There does not appear to be a rational basis for that distinction and we suggest that they either both be defined or neither be defined, but we're not sure why one is defined and one isn't.

If I may I'll turn over to page 4, with reference to final emergency orders. If it is the intention of subsection 17(8) of Bill 112, which relates to emergency orders, that a judge's disposition be final and that there be no right of appeal, we just wish to bring to your attention that there is a recent case from 1988 called Yorkville North Development and North York that defines the words "final" and "binding." You may recollect that this is the term found in the Planning Act in section 31. With reference to that particular decision, we suggest that the word "final" be amended to read "final and binding," so that it tracks the words of the Planning Act, and in light of that particular decision of the Court of Appeal, there's no question that there be no right of appeal from that particular decision.

The next matter I'd like to address is item 3 contained at the top of page 5 relating to certified professional programs. We noted that Bill 103 did permit the Lieutenant Governor by regulation to enact a program of certified professionals and in that way speed up issuance of building permits which, as you may have heard, may be taking some length of time in some areas. We noted that Bill 112 has deleted that particular authority. It is our suggestion that it be included in Bill 112 once again. Why? It would

then give the Lieutenant Governor the ability to set up a program at some time in the future should, for example, the conditional permit system not reduce the backlog. But we suggest it is a matter that could be addressed in the future in this particular bill.

The last item I'd like to deal with is item 4. Again, it's a minor matter. Subsections (11) and (13) of section 8 of Bill 112 both prohibit a person from constructing or demolishing a building or structure. Subsection (11) refers to the Building Code Act and regulations; subsection (13) refers to plan specifications or documents. It was our opinion that those two subsections could more properly be joined together and the words, "in accordance with the Building Code Act and regulations," could be appended to (13) or the other words appended to (11), so you don't have to have those two separate subsections.

Those are our submissions.

**The Chair:** Thank you very much for the presentation and the specific nature of your suggestions. I'm going to ask Ms Harrington to make a few comments about where the ministry is with respect to those and then we can get into the questions. I think that will perhaps help in that way.

**Ms Harrington:** Thank you for bringing forward your very careful look at what we are doing. First of all, our legal counsel, Mr Levitt, is here and I'm sure listening very carefully. I want to respond to a couple of the questions. The applicable law: We discussed some of that this morning and we understand what the situation is, that you would like it as clear as possible. We are looking at that and how to do that in the best way. I would like to ask Mr Wildish to comment on the non-compellability in a civil suit, because that is something we have discussed.

1510

**Mr Wildish:** Yes, this is an issue that has been around, as everyone here knows, for some time. It's of particular interest to the building officials as well, because they're the ones who have to go to court. It was put in in Bill 103, of course, because the idea was that we would like to have people in a litigation of a civil matter have as full access as possible to all the information which might be helpful in the case.

It was our view at the time, and remains our view now, that there was some potential for a building official to spend a little more time in court, but we did not think that would be serious and that there would be any serious increase in this matter. I think that still remains our view, that the gains to be made by having more information available in civil suits outweigh any possible increase in the attendance at court by building officials.

The changes in the Freedom of Information and Protection of Privacy Act recently seem to us to make a lot of information available to people in cases at court. They won't have to rely as much on bringing a building official to court but can perhaps get that information directly from municipalities under the freedom of information legislation. I think up to now we haven't felt it compelling to reinstate that idea.



**Mr Wayne Lessard (Windsor-Walkerville):** I want to thank you for your presentation as well. I found it very helpful. As a former member of the bar association, I always appreciate the work you do to help us out in our job.

Something was mentioned in a presentation earlier today with respect to the time for appeal for persons who feel themselves aggrieved by an order of a chief building official. This is in section 25. The person who made this submission said that they really didn't know why they were making it. Their submission was written by a lawyer and they felt that lawyers always ask for more time. In this section the appeal period is limited to 20 days and the submission was that it was too short a period of time. I wondered if you had any comments with respect to that.

**Ms MacLean:** Yes, I can comment on that from experience. There is discretion in the court to extend the time, as you know, and that's still there under subsection 25(2). From a realistic standpoint, I think there has to be some certainty in the system and I quite frankly think 20 days has worked. There are a multitude of cases that have gone before the courts under what is now section 15, and it's my understanding this is exactly the same, is it not? There's no change and I don't know why they'd want to change it. It is working.

**Mrs O'Neill:** Thank you very much. It's helpful to have a presentation from people who are working with this in the formal way in which you work with a piece of legislation and to have your responses. The "applicable law" definition and certainly the certified professional program—I should say both of those are not components of the bill—really have caused quite a bit of discussion by many of the presenters. I'm very happy that you put in your comments on the former bill, Bill 103. It's helpful to put it into the context of the way things develop. Could you tell us about the meeting or submission you had on February 20? Was that a meeting or a consultation process? You say this was submitted in another context. At least that's what your cover says.

**Ms MacLean:** It was my understanding that it was just submitted by the bar. We did not meet. There was no meeting involved.

**Mrs O'Neill:** In other words, to this moment you haven't had response to any of these issues.

**Mr Schachter:** That's correct.

**Ms MacLean:** The response, I guess, has been reflected in the fact that there were changes in 112, so we assumed that in part it may have had some input. We have consulted with staff. At least, I personally have and I believe Mr Schachter has.

**Ms Poole:** Thank you for your comments today. They've been quite helpful. I notice that in addition to the Urban Development Institute and the Ontario Home Builders' Association, the Canadian Bar Association—Ontario is also supporting the certified professional program. I gather the primary reason for this is to reduce the backlog at peak times. Are there other reasons why you find this particular proposal attractive?

**Mr Schachter:** In my opinion, that would be the main reason for having a CPP, in order to streamline the system. I think one further comment, though, now that you've raised it, and it is contained in the appendix to our submission's earlier comments on Bill 103, is that while we do support the proposition of the CPP, it is a matter that will have to be looked at fairly carefully, because there are a number of pitfalls relating to that in terms of conflict of interest, what a permit issued under that program would actually constitute, the validity and other matters such as that.

I think it's within the context that we do support the principle on the basis that it would speed up matters, but if we should ever get to the point of actually looking at the nuts and bolts of what the program would look like, I would suggest we should probably take a fairly close look at it.

**Ms Poole:** In other words, the principle is very good but you are a little concerned about how it would be implemented, which I think would probably primarily be through the regulations.

**Mr Schachter:** Yes.

**Ms Poole:** Has the Canadian Bar Association been approached by the ministry as far as a consultation on the regulations is concerned, or has your group been involved at all?

**Ms MacLean:** Speaking from the standpoint of our section, no, I'm not aware of any consultation. Perhaps Erica can speak to that.

**Ms James:** No, we haven't had any consultation.

**Ms Poole:** Perhaps I could suggest to the ministry, given its expertise and its familiarity both with the law and the technicalities of the act, that it might be very helpful to have it involved and I would certainly urge you to invite it to do so.

**Ms Harrington:** Thank you for that suggestion. Just from the fact that you're on the list today, I presume that you have certainly interacted with our officials in the ministry, and that is certainly a good idea. I wasn't sure what Ms Poole was suggesting. Is it just in the one particular regulation you were thinking about—

**Ms Poole:** No.

**Ms Harrington:** —or was it in all of the regulations? I would certainly think on a broad base, yes.

**The Chair:** Mr Tilson?

**Mr Tilson:** I don't really have any questions, other than perhaps a comment and a question to Ms Harrington. I'm sure my Liberal friends are just delighted by your comments, because certainly you seem to be supporting Bill 103.

**Ms Poole:** As have most of the presentations, Mr Tilson.

**Mr Tilson:** And that leads to my question to Ms Harrington, because there have been a number of comments that you've really echoed, whether the certification process or a number of other areas. I wonder, Ms Harrington, if you can provide the rationale as to why there have been



the changes that there have been from Bill 103 to Bill 112, if you are aware of those.

**Ms Harrington:** Okay, how many changes would you like to be discussing?

**Mr Tilson:** Whatever you wish to comment on really. Just take this delegation. We could go through and comment on how they would prefer certain things that were in Bill 103 and that aren't here in Bill 112. You could take any number of them, your choice, the applicable law definition, the certification professional program.

**Ms Harrington:** Certainly, Mr Tilson, we have, during the course of today and yesterday, gone over various items that are in or out and presented the bill as we see it. I think you're aware that over the last two years what we have done is looked at Bill 103 and brought in some other ideas and made it into our bill. I think that's a very legitimate process and I certainly don't think I have to justify everything that has gone on during that time.

**Mr Tilson:** Sure we've got time. We've got lots of time. It's quite serious, when we have delegation after delegation come to us with suggestions as to why the provisions in Bill 103 would be preferable to Bill 112.

1520

**Ms Harrington:** On the other hand, we also have many, many delegations saying that, "Yes, you have included other things which are very worthwhile and the direction we should be going in."

We are discussing the bill as it is presented now. Certainly I'd be willing to answer your questions about some of the things left out, but I can't go through everything. I think it's been pointed out very clearly, for instance, with the certified professionals provision that had been included there that there are some reasons for it and reasons against it, and just right now we've said it certainly would speed up the process in times of high demand for service.

On the con side, there could be conflicts of interest, it's difficult to implement, there would be a long process of development with it. I have indicated to you before that we have looked at the pros and cons with our staff over the past while, and we have, as you said, excluded it. The reasons we felt against it outweighed those for it.

**Mr Tilson:** Ms Harrington, all I can perhaps say is that when you make your next presentation in several weeks' time, I'd be interested, generally, in hearing the rationale as to why you've changed specific sections. I think other members of the committee would appreciate that as well, particularly when delegation after delegation is coming forward saying they would prefer those other sections. I think the delegations and members of the committee are entitled to know your rationale, whether you're doing that in your presentation or in your clause-by-clause discussion. I might as well tell you we're putting you on notice that we would expect that.

The only other comment I have, Mr Chairman, is that this delegation is just typical. I fear that the consultation process that is being set forward by the government is inadequate and that expert groups such as this aren't being offered an opportunity to come forward and put forward their positions, particularly when they've indicated that

they are willing to do that so that hopefully the ministry officials will perhaps improve that consultation process, if that's the direction we're going in.

I have no further questions and I thank you for your thoughts.

**Ms Harrington:** I would like to comment. With respect, I don't think that's exactly what this group said, that it has not been included. Maybe they would like to clarify that a little further.

I would just like to finish off by saying—certainly my staff is listening here—that I am asking them to look into and report back to us about various things that we have talked about, for instance, the applicable law definition. At the end of today they will be answering our questions from yesterday, and certainly at our next meeting they will also be answering some questions. We will do our very best to do that for you.

**Mr Tilson:** I'll be looking forward to hearing your rationale.

**The Chair:** Thank you very much for your presentation. I have a suspicion that you will be involved in this issue for some time to come.

**Ms James:** Thank you. We're always very happy to do so.

#### PRICE CLUB CANADA INC

**The Chair:** I would now like to call upon the next presenter from the Price Club Canada Inc, Ms Joy Goodman, vice-president, legal affairs, and I believe there may be one other person. Perhaps, Ms Goodman, you'd be good enough to introduce your colleague.

Could I, for members of the committee, make just one comment at the outset before this presentation begins. I understand, Ms Goodman, that there is currently a legal case before the courts and I simply remind you that this is of course a public hearing and obviously anything that is said within this room is a matter of public record.

**Ms Joy Goodman:** Yes, that's correct. Thank you, Mr Chairman.

**The Chair:** If you would introduce your colleague and then please go ahead.

**Ms Goodman:** I wish to thank you for taking the time to hear me today. I know my request for a hearing was somewhat last-minute, so I really appreciate your flexibility. My name is Joy Goodman. I'm vice-president, legal affairs, of Price Club Canada, and here with me today is Yvonne Hamlin, who's a partner with the law firm of Goodman and Carr.

My submissions will address two very specific points dealing with appeals by third parties from the issue of building permits: standing to appeal and whether an appeal automatically stays the operation of a building permit.

This matter is dealt with in section 15 of the present Building Code Act and in section 25 of Bill 112. I understand that appeals by third parties from the issue of building permits are very rare. Certainly there are few reported decisions in Ontario dealing with this subject. However, the rarity of such appeals is hardly a comfort to those who find themselves in this situation, and that's the very

experience that Price Club Canada is going through now, so I speak to you out of personal experience.

Price Club Canada Inc is in the business of operating warehouse membership clubs selling food and general merchandise to members only. Our membership is drawn from two main groups: businesses of all kinds, which are our target customers, and members of the public and what we call the parapublic sector. From our beginnings in Montreal in 1986, we now have 12 warehouse clubs operating in Canada, five of which are in Quebec, five in Ontario and two in British Columbia. We're also in the process of building five new units to open this fall, one of which is in Ontario.

Each warehouse club employs approximately 200 to 250 people at opening. Depending on sales volume, employment will generally increase to about 400, even 500, when the warehouse reaches maturity, which takes about a year. The purpose of Price Club is to serve the needs of businesses, particularly small businesses, by providing them the goods that they need to operate their business at wholesale prices and by allowing them to buy any quantity of goods, large or small. Our markups average 8% and our aim is to provide day-in, day-out prices which are better than those of wholesalers with whom we compete.

For the past year in Ontario, we have found ourselves targeted by various supermarket chains which have tried through various means to delay or to block the opening of new warehouse clubs. Typically, these tactics take the form of objecting to rezoning applications, both at the municipal level and by systematically appealing favourable decisions to the Ontario Municipal Board. Simply appealing the appeal adds over a year to the typically rather lengthy rezoning process.

As a response to these tactics, Price Club has started looking for sites where no rezoning is required. Ancaster, which is near Hamilton, is such a site. In Ancaster we started negotiations about nine months ago. In that case our lawyers looked at the zoning and the official plan and told us that in their opinion our use was a permitted use for that site. As well, through our vendor, we obtained a letter from the town of Ancaster confirming that our use fit within the zoning bylaw. Finally, our lawyers wrote to the Hamilton-Wentworth region and obtained its written confirmation that our use falls within the official plan. Based upon all this, we decided to go ahead with our project.

There were certain things that had to be attended to. First, there was a road that had to be partially closed, and a new subdivision had to be registered. Those things were done by our vendor and the town of Ancaster. As soon as the subdivision was registered, we purchased the property, and the very next day we obtained our building permit. On the 20th day following issue of the building permit, which is the last possible day for doing so without leave, an appeal was filed from our building permit. That appeal was by Loblaws. We later learned that Oshawa Group had also appealed, but this procedure was not served until much later.

The Loblaws application was based upon interpretation of the zoning bylaw and also on the Environmental Assessment Act. This had to do with the road closing. No

affidavits or other materials were filed at the time the application was served. I should tell you that much later, in fact very recently, the environmental assessment grounds were dropped, so the case will be proceeding solely on interpretation of the zoning bylaw.

As soon as the application was filed—I think it was a day later—we met with representatives of the town of Ancaster and their lawyer, and the town told us that their lawyers were of the opinion that the appeal automatically stayed operation of our building permit. This opinion was based upon the one and only reported decision directly on point, the Famous Players case, which is referred to in my written submissions.

#### 1530

The town also informed us that a stop-work order would issue if we did not stop construction immediately. We were flabbergasted. At that point, we had spent \$8.5 million on the land. We had actually paid about \$1.5 million in construction costs, with an additional \$3.5 million which we were committed to spend under our construction contract. We had ordered substantial equipment and fixtures. We had hired some employees and, of course, we had made arrangements with our suppliers for stocking the warehouse. In addition, the foundation work was at a critical period; we had encountered a problem with water infiltration and it was very important to us to complete the building foundations in order to remedy this problem.

Finally, and this is very important, stopping work was absolutely disastrous for our general contractor and the various subcontractors. I don't have to tell you what things are like in the building industry these days. Our general contractor informed us that he had already laid off all of the workforce on the site, while the structural steel supplier told us that unless we took delivery of the steel which he had already manufactured for us, not only did his company face substantial layoffs but possible bankruptcy.

At this point, our lawyers brought a motion for a declaration (a) that there is no automatic stay of the building permit and (b) that if there is an automatic stay the court allow us to continue building until the hearing. We also asked that the hearing date be brought forward to the first available date. On the day the motion was scheduled to be heard, Loblaws agreed to allow us to continue building, subject to our undertaking not to open the warehouse before the hearing, and the hearing date was moved forward to September 8.

Consequently, as you can see, these events are not only fresh in my mind but are very much ongoing. So with these events in mind, I'd like to turn to the two particular issues that I have mentioned.

The question of standing is dealt with in section 15 of the present Building Code Act and section 25 of Bill 112. Section 15 of the 1980 Revised Statutes of Ontario allowed a person who considers himself aggrieved to appeal orders or decisions of inspectors or chief building officials. In the course of the 1990 revisions, the words "person who considers himself aggrieved" were dropped, most likely inadvertently. Thus, the present act, on the face of it, allows any person to appeal.



Section 25 of Bill 112 goes back essentially to the earlier wording in, I guess, a non-sexist form. The wording in Bill 112 is "any person who considers himself aggrieved." My concern is that these words, on their face, appear to contain a subjective element. I suggest that the test should be clearly objective and that this could be achieved by using the words "person aggrieved" alone. In fact, the leading decision on the subject, *Friends of Toronto Parkland*, which is cited in my written submissions, does say that "person who considers himself aggrieved" is wider than "person aggrieved." However, these words are not open-ended; at the very least, the court held that there had to be reasonable grounds for believing oneself aggrieved.

The court in the *Toronto Parkland* case appeared very concerned that the recourse not be restricted to people with a direct economic interest and that public interest litigation be permitted. This is a very serious concern, particularly in these days of great awareness of environmental issues, for example. However, I feel that an objective test would leave the door open to persons with a serious objective interest which is other than economic.

I should tell you that an earlier Ontario county court decision in the *Riverview Heights* case had assimilated the test of "person who considers himself aggrieved" and "person aggrieved." That case, which is in my written submission, cites with approval an earlier Nova Scotia Court of Appeal decision in *re Halifax Atlantic Investment*. This case held that a competitor was not a person aggrieved and thus did not have status to appeal a decision of the municipal council.

Obviously, this is my particular axe to grind. I do not believe it is proper for competitors or perceived competitors to attack the issue of building permits in the guise of increased competition. If they're allowed to do so, I submit, this will lead to uncertainty by municipal officials, who will be constantly exposed to having their decisions second-guessed, an unacceptable risk for all businesses that wish to start operations, and consequently, increased unemployment and loss of competitiveness.

To resume, we therefore submit the section should read, "a person aggrieved."

My next point deals with the issue of automatic stay. I explained to you that one of the things I found most difficult to deal with in the *Ancaster* situation was the idea that someone could, by merely filing a short application, not even backed up by affidavits or any other documentation, bring a \$13-million construction project to a halt without ever going before a court or giving the other side the opportunity to be heard.

One of the things I said to the town officials, when they told me this was their interpretation and a stop-work order would be issued if we didn't stop, was that, by the same reasoning, we could appeal the stop-work order, which would presumably amount to an automatic stay of the stop-work order. I told them that I could not believe that the law of Ontario was to that effect and I can tell you now that I still don't believe it.

Neither the present Building Code Act nor Bill 112 specifically provides that an appeal does or does not auto-

matically stay the operation of a building permit or any other decision of the inspector, or the chief building official for that matter. However, subsections 15(6) of the present act and 25(7) of Bill 112 do allow a judge, in certain circumstances, to order that an order or decision not be stayed pending the appeal. In the case of *Famous Players* and the city of Toronto, which is referred to in my written submission, the court held that an appeal by a third party does automatically stay the operation of a building permit. There is, however, Divisional Court authority, which I also refer to, namely the *Revenue Properties* case, which says that at one stage higher up in the process—that is, on the appeal from what is now the Ontario Court to the Divisional Court—there is no automatic stay.

I believe, as I said, that appeal from the issue of a building permit should not automatically stay the building permit. If the appellant wishes to bring a motion for such a stay prior to final judgement on the merits, the appellant should have to meet the tests which are usually provided for in an injunction proceeding: to show a strong *prima facie* case and that the balance of convenience favours the appellant.

As well, I believe that, unless the judge dispenses him from doing so, security for damages should be filed. In fact, if you look at the *Famous Players* case, you'll see that, in order to do justice in that case, the judge was obliged to give an extremely wide interpretation to subsection 15(6), which is now 25(7).

I think we should turn there for a minute. That subsection reads, "Upon application without notice, a judge may order that the order or decision appealed from be not stayed pending the appeal but shall take effect immediately on such terms as are just if, in his or her opinion, such action is necessary for public safety and would not make the appeal meaningless."

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Now, in that case, in the *Famous Players* decision, the judge says this:

"Therefore, the overwhelming balance of convenience is to order that the building permit be not stayed. However, I must pay attention to the wording of section 15(6) of the act. It is not necessary in the interest of public safety that the building permit be not stayed. On the other hand, it is not contrary to the interest of public safety that the building permit be not stayed. In my opinion, the section should not be narrowly and restrictively interpreted so as to unreasonably limit my discretion in a situation where the overwhelming balance of convenience is in favour of the exercise of such discretion."

As you can see, he was forced almost to turn this subsection on its end in order to give justice in that case.

To resume, the ordinary rule should be that the respondent should be allowed to continue construction until final judgement. However, I do believe that the judge, on motion by the appellant, should have discretion to stay operation of the building permit in an appropriate case.

I would suggest to you that unless the judge orders otherwise, in order to obtain such a stay before final judgement, the appellant should file security for damages. So we



submit that section 25, and particularly subsection 25(7), should be drafted to expressly provide this.

This approach is also in line with recent changes to the rules of practice in civil matters, which have recently been revised to provide that, with the exception of monetary damage awards, appeals do not automatically stay the operation of judgements. This is now found in rule 6301, and I would like to quote from the comments contained in the Carthy Miller Cowan edition of the 1992-93 rules:

"The major amendment to this rule in 1989 reverses the earlier approach. Formerly, everything was stayed except enumerated items. Now nothing is stayed except a money recovery which is unrelated to support. The intent appears to be to eliminate confusion as to the meaning of 'mandatory order' and 'injunction' as exceptions in the former rule. On a motion to stay, the applicant should be prepared to provide a measure of security to the respondent."

So we would urge the committee to take this opportunity to update the stay on appeal proceedings in the building code to make them in line with the rules of civil procedure. I thank you for taking the time to listen to me, and Ms Hamlin and I will try to answer any questions you might have.

**The Chair:** Thank you very much for your submission, which, as you say, is on several very specific points. As a non-lawyer, I'm always reminded, when one gets into some of these issues, that I take cover in thinking of Alice in Wonderland and how this just gets curiously and curiously as one tries to find one's way through all of it. But I think you've raised some very interesting points, and there may be some free advice here as to where we're going to go, but I'll start with Miss Harrington.

**Ms Harrington:** Thank you very much, Ms Goodman. I'm surprised that you have the time to be here today. Obviously, you're very busy, and I note that next week you will, I believe, have an answer. I hope that will be a decision then next week. I was also going to mention, since I represent Niagara Falls, that we were hoping we would have a Price Club in the city of Niagara Falls some time soon.

I appreciate your suggestions to us. This is the first time we've had a direct problem like this in that particular section of the act, and I thank you for your suggestions with regard to the change of wording as "person aggrieved." What I can tell you is that we are going to take this under consideration over the next week before we come back to clause-by-clause, and that this is certainly an indication that the ministry is flexible and that you've brought to us a direct concern and we are going to look at it.

**Ms Goodman:** Thank you so much.

**Ms Poole:** Thank you for your presentation today. Hello, Yvonne, how are you?

**Ms Yvonne Hamlin:** Fine, thank you.

**Ms Poole:** Yvonne and I go back a number of years where we worked on the same premises.

I would just like to thank you for bringing these issues forward. They're obviously not your standard issues. Nevertheless it appears there is some sort of injustice here that should be corrected.

With reference to the "person who considers himself aggrieved," it just seems to make common sense that this would cover any person on this earth, if they so wished. It seems to me it is much more objective to deal with any person aggrieved, so I'm glad to hear that the ministry's going to consider that.

About the second issue, that is, to update the stay on appeal provisions so that different rules do not apply at different levels of appeal, could I ask a question of the ministry legal counsel, who I believe is here today, whether in fact they have considered the new rules of practice and whether they have considered whether Bill 112 is moving in tandem with the new rules of practice, if that would be permissible, Mr Chair? Could I ask for an answer from legal counsel?

**The Chair:** Yes. Please come forward and, again just for Hansard, identify yourself.

**Mr Levitt:** My name is Jeff Levitt. I am the legal counsel with the Ministry of Housing.

In terms of the stay on appeal, from the ministry's point of view, it is a recent submission, and I think in some ways, although very important, the few cases which have been reported on this may reflect the fact that it hasn't come to court very often in the sense of being a practical problem.

But in terms of the rules of practice applying to the appeals from one court level to another, in some ways, considering that the actual appeal decision that's under consideration here is from an administrative decision to a court and the general rule in those situations seems to be contained in the Statutory Powers Procedure Act, which provides that as a general rule an appeal of an administrative decision constitutes a stay, there may be a little bit of comparing apples and oranges.

The other aspect I'd like to mention about the stay is that it has to be considered that the permits we're dealing with here are not only construction permits but demolition permits as well. In terms of the balance of convenience, if someone is allowed to proceed on the basis of his or her permit pending the appeal, the wording in the Building Code Act that's carried forward now refers to the fact that the stay can't make the appeal meaningless.

I guess that has to do with the fact that in building construction and demolition, if things get too far, if things are allowed to proceed too far either in construction or in demolition, in fact the appeal can be meaningless. That might be one of the reasons that's included in the statute currently and continued.

**Ms Poole:** I gather from that you don't buy the argument that the person who is appealing should have to make a prima facie case with strong arguments that there is indeed a case to be made.

**Mr Levitt:** What I'd have to say from the ministry point of view is that it's a fairly recent submission and has to be looked into. I just want to make the point that whereas the general rule of appeal from one level of court to another, according to the rule change in 1989, is that there is to be no stay, in the Statutory Powers Procedure Act, which deals with one level lower, the level with

which we're concerned, an appeal from administrative tribunal to anywhere else, including a court, generally is presumed to constitute an appeal. But in view of the fact the submission was received several days or a week ago, it's hard to give a decisive answer.

One other thing I'd like to add is the fact that there are relatively few cases. It's hard to know why this happens and what it's indicative of, or in view of the 20-day appeal period, perhaps people commence construction on day 21 instead of day one, because, the appeal period being there, there's the possibility of the appeal happening. I guess that's about all I can say in answer to your question.

**Ms Poole:** Since we do have 10 days before we commence clause-by-clause, if you and other legal counsel could take a second look at this particular issue, it might be very helpful to our committee. Thank you again for bringing these issues forward.

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**The Chair:** Did you have any comment you wanted to make just on this exchange?

**Ms Goodman:** I would say to Mr Levitt that we do have a different interpretation of the application of the Statutory Powers Procedure Act and we believe that under subsection 3(1) it's clear that the automatic stay provision does not apply to issue of a building permit, which is a purely administrative matter and does not involve a hearing.

**The Chair:** We'll recognize there's a difference of opinion and we'll move on to Mr Carr.

**Ms Hamlin:** Could I also just briefly address two other things that were raised?

**The Chair:** Yes.

**Ms Hamlin:** I think we will take the opportunity to meet with Mr Levitt afterwards because, given that there's a real need for an answer, I'm sure the legalities of it could be worked out.

Secondly, with respect to if this was to also apply to demolition permits—and that may be a very good point—there's no reason, for example, it couldn't be that the legislation could be drafted for slightly different rules where there's a question of a demolition permit.

Lastly, I think you made a good point about whether people should not be allowed to appeal or build until 20 days after the permit's issued, but I believe there are other provisions in the Building Code Act that specifically allow an appellant to come back after the 20-day period and ask for extra time to appeal. I think that would really have to be totally looked at, but we'd be glad to sit down with Mr Levitt.

**Mr Gary Carr (Oakville South):** I think that's an excellent suggestion. I assume the minister will want to do that. I think, as Dianne said, we have about 10 days till the clause-by-clause. I think the only commitment this committee will be looking for is that there will be some type of answer, given the fact that there may be some give and take and some interesting discussions.

Certainly by the time of clause-by-clause is plenty enough time for the legal people to have some type of answers so that the people at the Price Club will at least

know where they stand by the time of clause-by-clause. I want to thank you for coming forward with these opinions.

Just with regard to the court case, you mentioned a little bit some of the circumstances and some of the dates. Where are we at with the court case now?

**Ms Goodman:** Our hearing is scheduled for September 8, next week. That's where we are right now. I want to tell you that obviously I realize that nothing I say and that no amendments put forward here will have any effect whatsoever on that case, but I'm looking to other possible battles in the future and I also would very much like to do my bit to prevent other people from being put in the same situation as we are in Ancaster, because it is an agonizing situation.

**Mr Carr:** I appreciate this might not change it. Would you like to comment too on what this will lead into? I assume you're talking of large costs, depending on what happens in the court case. What do you anticipate happening if, for example, you were to lose the court case, in terms of damages and so on? Would you care to comment on what that would lead to? The reason I'm asking that is that this committee, I think, should be aware that what it's doing here could affect organizations and companies down the road.

I can appreciate you might not want to comment because you're assuming that you may win but, if not, do you see this leading to a lot of legal challenges in the future?

**Ms Goodman:** I can't really comment on the outcome of our particular case. Obviously, we don't expect to lose; otherwise we would never have made the decision to continue construction. Even then, as I said, it's an agonizing decision because you always wonder "what if." However, I do feel that if Price Club loses, this will most likely lead to other challenges by third parties of building permits.

As Mr Levitt said today, these are fairly rare. My feeling is that in the future they may become more common. I feel that the results to the economy, to employment, to certainty of municipal building officials, will be really devastating.

**Mr Carr:** I think you're right. Depending upon the outcome, it will certainly twig the interest of other organizations and what they might want to do. If it does, I think the only ones who would benefit would probably be the lawyers, notwithstanding the fact that you're both lawyers.

I appreciate, on page 7, you've introduced some conclusions that are very simple and very concise. If in fact this bill was to incorporate some of the conclusions you put in there on Bills 7 and 8 from a legal standpoint, do you believe it will eliminate some of the problems you're encountering? If not, is there anything else the committee should be looking at?

**Ms Goodman:** I believe it will tend to limit the class of persons who will be entitled to launch appeals from building permits. It will also restore a measure of what I believe to be fairness into the question of automatic stay or not automatic stay. I do not believe it is fair that construction projects should be halted without the builder, without the party involved having an opportunity to be heard. That's really where I'm coming from.



**Mr Carr:** The only other question I had was to the legal counsel, to Jeff. I don't know if he wants some time to think about it. The change they're proposing is basically one word, I think, in their presentation on pages 4 and 5. It's basically taking one word out "who considers himself aggrieved." One thing I've learnt about lawyers: When they talk, you say, "Boy, that sounds reasonable," and then you hear the other side and you say, "Boy, that sounds reasonable too." From your standpoint, would you be able to comment now how those changes would affect it?

**Mr Levitt:** I'd probably not be able to comment at too preliminary a level other than that at an initial look through there doesn't seem much more agreement about who a person aggrieved is than who a person not aggrieved is. Secondly, I guess under the current system, the cases seem to have held that, at the very least, neighbouring land owners can have right to appeal. Whether or not those people would continue to have a right to appeal is something to be looked at, but I think it would take quite a detailed and in-depth legal look to be able to comment on that.

**Mr Carr:** One last question. I assume, though, that circumstances being what they are, it should be left up to a judge to make the determination. In other words, the way you would like to see it written is that a judge can look at two different cases and say, "This is the one that should be allowed and this the one that should not." I assume you think it can be written so this can happen.

**Mr Levitt:** I'd have to consider that because the question is, you can write to have what you want happen. It's first deciding exactly who you want to be able to appeal and you kind of work backwards from there.

**Mr Carr:** Knowing that there may be other considerations because, as you know, it isn't just something that financially would be involved, but there are quite a few third-party interventions and a lot of things happening these days.

In closing, I'd like to again thank the presenters. You've added an interesting angle to this and we've appreciated your coming forward. I think you've got a commitment that the government is going to look at.

**The Chair:** On behalf of the committee, thank you again for coming before us this afternoon.

A few administrative matters, if I might, for the committee. We are scheduled to sit again on the 14th and 15th of this month. The committee—

**Ms Poole:** I'm sorry, I didn't mean to interrupt, Mr Chair. I just had a point on the next time we meet. Normally, committees meet a little bit later on Monday morning to allow time—

**The Chair:** That's just the point I was about to raise.

**Ms Poole:** I've pre-empted you.

**The Chair:** It was just when we would meet. We had made a decision as a committee that we would meet on Mondays at 2 o'clock. On the schedule, it had 10. I'm in the committee's hands. We have two days from the House leaders to sit: Monday the 14th and Tuesday the 15th. If the committee believes it can do the clause-by-clause Monday afternoon and Tuesday, then we can begin at 2 on

Monday. If members feel they would like to have the two full days, then obviously we'll start at 10 o'clock. I just wanted to raise that and get some direction from members of the committee.

**Ms Poole:** I guess great minds think alike, because I was wondering about the same thing.

**1600**

**The Chair:** I think it's because we're Liberals.

**Ms Poole:** Yes, maybe that's got something to do with it. Mrs O'Neill has suggested, as a compromise, that perhaps we meet at 1 for the ministry's presentation and then begin the clause-by-clause at 2.

**The Chair:** Is that agreeable, Mr Tilson? Okay. So we would begin at 1 o'clock and go forward, and I guess we could plan to sit, then, until 6? Or 5. Five; all right. And then Tuesday we'd start at 10 and continue with the schedule as set out.

The other thing was that yesterday Ms Poole asked for some information which was going to be provided. I just want to remind the ministry officials if that could be sent to Ms Mellor as early as possible next week so that she could then circulate it to everyone prior to clause-by-clause. I wish I could remember what each of those questions was. I remember those were noted yesterday and I see some nodding heads, so I assume that is all in hand.

Was there any other question? Okay, Ms Harrington and then Ms Poole.

**Ms Harrington:** Thank you. It was my understanding from yesterday that we had agreed that the staff would try to answer some of the questions orally today as well as provide the written questions for you on the 14th.

**The Chair:** There was in particular the question that Mr Hansen had raised, if I recall, and it was indicated that there would be somebody here today.

**Ms Harrington:** Mr Arlani's here.

**The Chair:** Okay, can we just hold that for a second? I'll just take Ms Poole's question and then we can proceed to deal with Mr Hansen's specific issue.

**Ms Poole:** The question actually was in reference to Ms Harrington's comments. I think what we did was to ask for written material. However, if they did have verbal information ready, that would be fine.

**Ms Harrington:** Some questions were very short.

**Ms Poole:** On some questions, if they were short, that would be fine. The second question I have is about Hansard: when Hansard would be available from yesterday and today so that we could use it for preparation for clause-by-clause.

**The Chair:** Okay, I direct that to the clerk.

**Clerk of the Committee (Ms Lynn Mellor):** They're pretty well up to date. They should be ready Tuesday.

**The Chair:** So Tuesday.

**Ms Poole:** Tuesday; that's excellent if that could be arranged.

**The Chair:** All right, then, if we could move to the question Mr Hansen asked and perhaps begin. Again, if you would just identify yourself for Hansard, please.



**Mr Ali Arlani:** My name is Ali Arlani. I'm manager of code development and advisory services. Our basic job in our unit is to write the code and advise on the interpretation of the code.

**The Chair:** Just reiterate the questions so that those who may not get a chance to read yesterday's Hansard will have the full, unabridged story today.

**Mr Arlani:** There were a few questions which we took down. One of them was on the issue of energy efficiency and European technology on automatic shut-off lighting systems. What I want to raise with respect to that particular question is that the building code already addresses the issues of energy efficiency. We have been doing that since the early 1980s, mainly for residential buildings. In the proposed amendments we are moving to other large buildings, commercial and industrial, as well as large residential such as condominiums. What we are doing is setting a performance standard that your building should have so much energy consumption per square foot. So that would clear the bit about the performance of buildings.

With respect to the particular technology which was mentioned, that system has been in place in Europe for almost the past decade. I have seen it myself. I will caution a bit when we are looking at just a single component of a building and saying, "Let's mandate it." We have to look at that in light of what other things we're asking for under, let's say, our electrical safety code, the fire code and the building code. Our building technology is quite different from Europe's. We don't build the same way. We don't use the same materials, and our firefighting and evacuation process is quite different.

Looking at all those things, last year we recommended approval of two systems which are sensor-based systems for, let's say, public stairways and so on, which fundamentally will work like remote lighting which, on some of the residential buildings, are installed on top of the garage or the driveway. We are looking at that. As systems become available in the Canadian market, we evaluate them. If it's appropriate, we will, in consultation with the fire marshal's office and Hydro, recommend approval and installation of them. I can just go so far with respect to that particular issue.

There was a question with respect to the plumbing and what will happen if there are renovations or retrofits. I want to address the issue with respect to what will happen if today somebody wants to install a fixture based on the Ontario Water Resources Act and the plumbing code. Effective January 1993, if you wanted to install a fixture under the plumbing code and if you kept the present system, you would be required to install with new standards. If you move location, again that's subject that you have to install new. There's no leniency. There's no change if we go on the water resources act.

Under Bill 112, if it comes under part 7 of the building code, that may change in the sense that we have the flexibility on the renovation requirements in the code to decide whether we want to mandate that every single time there is any change to a building we have to replace the old fixtures with new fixtures; alternatively, we have that flexibil-

ity to say, like other building systems, that as long as the performance level of that particular fixture is not reduced, that's acceptable. We have that leniency under Bill 112. We don't have that leniency under the present Ontario Water Resources Act, so it's a step forward in terms of flexibility.

The issue of ceiling heights was mentioned yesterday. I want to address that because it's an issue which a lot of people debate, this issue of safety and why we are talking about ceiling heights.

Ceiling heights have traditionally been addressed under the building code. There are three reasons that we look at. One is the fire safety issue. What I mean by fire safety is, if there is a fire, who is going to evacuate and, if you have a lower ceiling height, whether that's going to cause a problem for firefighters.

The second issue is personal hazard. We have quite a number of cases where you have lower heights, either in garages or ceiling heights, or where you have beams which come into the main area of the ceiling, and those cause personal injuries. We look at that.

The third issue we look at is the issue of air quality. If you look at other legislation, for example, under Community and Social Services, you see that they talk about bedrooms and that the volume should be, I don't know, seven cubic feet per person. The reason for that is that if you are sleeping in that room, you require a certain amount of air in order to be healthy. Under the building code, we translated that to a size, a square footage, with the assumption of a certain height.

When we talk about ceiling heights, we look at those three issues. That does not mean that we will set a standard which will be so prohibitive that if you go to existing buildings, across the board you are going to have a problem with converting them to, let's say, accessory units. However, we consider those three issues and we look at the practice. We see what is existing there, what problems they had, how many fires we had in those basements and what happened to them. In discussions with the fire marshal's office and ourselves with clientele, we will come up with a figure which will accommodate all of those concerns.

I guess those were three basic issues. I tried to answer them as shortly as possible.

**The Chair:** Thank you very much. Were there any comments?

Ms Harrington has a response that was requested by Ms Marland. While she isn't here, so that it is on Hansard and she'll be able to read it prior to clause-by-clause, I think it's important that we get this response as requested. Therefore, I'd like to ask Ms Harrington to do that.

**Ms Harrington:** I'd like to respond to Mrs Marland's request for an amendment guaranteeing the exemption of existing buildings from all regulations except those regarding safety.

Our commitment to full public consultation on the development of all regulations means that we would not wish to make any final decisions on what will and won't be part of the code for existing buildings until all concerned

groups have a chance to contribute. As Mrs Marland pointed out herself, certain additional areas, like energy efficiency, could possibly prove to be broadly accepted by the public and all interested groups for inclusion in an existing building code. It's impossible to say at this time what kind of measures would be included.

Obviously, full consultation means that we will not introduce unreasonable regulations which are not broadly accepted, but it also means that we won't decide on the nature of those regulations before the consultations take place. I hope that clarifies it for Mrs Marland.

**The Chair:** That, then, is on the record, and I'm sure Mr Tilson and Mr Carr in particular will bring that to her attention.

If there's no further business before the committee, we stand adjourned until 1 pm on Monday, September 14. I'm almost certain we'll be in this room, but in her usual efficient fashion Ms Mellor will inform us. Thank you. We are adjourned.

The committee adjourned at 1611.





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## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

- \***Chair / Président:** Beer, Charles (York North/-Nord L)
- \***Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)
- Drainville, Dennis (Victoria-Haliburton ND)
- Fawcett, Joan M. (Northumberland L)
- Martin, Tony (Sault Ste Marie ND)
- Mathysen, Irene (Middlesex ND)
- \*O'Neill, Yvonne (Ottawa-Rideau L)
- Owens, Stephen (Scarborough Centre ND)
- \*White, Drummond (Durham Centre ND)
- \*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)
- Wilson, Jim (Simcoe West/-Ouest PC)
- Witmer, Elizabeth (Waterloo North/-Nord PC)

### Substitutions / Membres remplaçants:

- \*Carr, Gary (Oakville South/-Sud PC) for Mrs Witmer
- \*Hansen, Ron (Lincoln ND) for Mr Drainville
- \*Harrington, Margaret H. (Niagara Falls ND) for Mr Martin
- \*Lessard, Wayne (Windsor-Walkerville ND) for Mrs Mathysen
- \*Marland, Margaret (Mississauga South/-Sud PC) for Mrs Witmer
- \*Perruzza, Anthony (Downsview ND) for Mr Owens
- \*Poole, Dianne (Eglinton L) for Mrs Fawcett
- \*Tilson, David (Dufferin-Peel PC) for Mr Jim Wilson
- \*Ward, Brad (Brantford ND) for Mr White

\*In attendance / présents

### Also taking part / Autres participants et participantes:

- Arlani, Ali, manager, code development and advisory services, Ministry of Housing
- Harrington, Margaret, parliamentary assistant to the Minister of Housing
- Levitt, Jeffrey, legal adviser, Ministry of Housing
- Wildish, George, special assistant to the director, Ontario buildings branch, Ministry of Housing

**Clerk / Greffière:** Mellor, Lynn



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## Legislative Assembly of Ontario

Second session, 35th Parliament

# Official Report of Debates (Hansard)

Monday 14 September 1992

## Standing committee on social development

Building Code Act, 1992

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

# Journal des débats (Hansard)

Lundi 14 septembre 1992

## Comité permanent des affaires sociales

Loi de 1992 sur le code du bâtiment

Chair: Charles Beer  
Clerk: Lynn Mellor

Président : Charles Beer  
Greffière : Lynn Mellor



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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 14 September 1992

The committee met at 1319 in room 228.

### BUILDING CODE ACT, 1992

#### LOI DE 1992 SUR LE CODE DU BÂTIMENT

Consideration of Bill 112, An Act to revise the Building Code Act / Loi révisant la Loi sur le code du bâtiment.

**The Chair (Mr Charles Beer):** I'd like to call this session of the committee open. We're looking at Bill 112, An Act to revise the Building Code Act. We will be getting into clause-by-clause today, but we will begin with a statement by the parliamentary assistant and some discussion with the critics before doing that.

**Ms Margaret H. Harrington (Niagara Falls):** Thank you, Mr Chair and members of the standing committee. As you recall, almost two weeks ago this committee held public hearings on Bill 112, the proposed legislation to amend the Building Code Act.

Before clause-by-clause review of this bill I would like to advise you of a number of amendments this government is proposing to Bill 112, but first I would like to thank the committee members and the presenters at the public hearings for their opinions and for the information that was provided. We heard from a range of groups with a keen interest in building regulation.

For instance, the Toronto Area Chief Building Officials Committee and the Large Municipalities Chief Building Officials group gave us the municipal perspective. The Ontario Home Builders' Association and the Urban Development Institute explained the position of the building industry. The Canadian Bar Association provided valuable input from the legal community. I'm sure you will agree with me that the time all the presenters took to prepare their briefs and appear before this committee was very worthwhile for all of us.

As I mentioned, we have prepared a number of motions that I believe will improve Bill 112. Some of these have arisen out of the debate that occurred at the hearings earlier this month, others from matters brought to our attention after the bill received first reading. I have provided copies of these proposed amendments to the committee members, with each amendment annotated to show its purpose. I want to stress that none of these amendments will in any way significantly change the intent of the bill; they will improve it.

The dozen or so amendments fall into three basic categories:

First, there are a number of technical matters addressed in these amendments which will clean up or clarify the language. These comprise the majority of the proposed amendments.

Second, we are suggesting several changes that will ensure a smooth transition from the previous legislation to the new law.

Third, during the hearings my colleague Margaret Marland expressed concerns about the scope of the building regulations, especially the proposed standards for existing buildings. This matter was also brought to our attention by the Urban Development Institute, the Ontario Home Builders' Association and the Toronto Area Chief Building Officials Committee. Thus we have clarified the purpose and scope of the building code, which is the regulation under this act.

I'll give you a few examples of the changes we propose for the committee's consideration:

We will clarify the meaning of "applicable law" in the building code regulation. Committee members will recall this issue was raised by the Toronto Area Chief Building Officials Committee as well as others.

The provision on search warrants has been altered to conform with the search warrant provision provided in the upcoming legislation concerning apartments in houses.

Third, several amendments will make wording in the proposed law more consistent. For example, the bill refers to "chief official" in some places, while elsewhere the title "chief building official" is used. These amendments will eliminate these discrepancies.

Also, my colleague Wayne Lessard will be bringing forward an additional amendment on a technical matter concerning the definition of "unsafe" in this bill, and I support that amendment.

The committee asked that our staff prepare written responses to certain issues that were brought forward at these hearings. These are, first, plan certification by private sector professionals, and second, whether to authorize entry for building inspectors to see if a building permit is required. These are issues that we did discuss. These written responses have been provided to the committee.

When we started work on this committee, I noted that Bill 112 reflected our government's commitment to update the building regulatory systems and standards. Certainly, previous governments also were interested in this. Changes in building style, complexity and design, changes in society's concern about existing buildings, changes in society's expectations for increased environmental protection and energy conservation and changes reflected by innovation in the construction of buildings are all being addressed in this bill.

Now as we move into clause-by-clause consideration of this bill, our objectives remain a more competitive building industry, safer buildings, reduced building cost, environmental protection and energy conservation. Staff from the Ministry of Housing are here to assist.

**The Chair:** Just one question: Where are the written responses that have been provided to the committee? Have they been given to the clerk?

**Clerk of the Committee (Ms Lynn Mellor):** They're coming.

**The Chair:** They're coming, okay. Fine. I just wanted to be clear on that.

Thank you then for your opening remarks. I now call on Ms Poole, the official opposition, for your comments prior to clause-by-clause.

**Ms Dianne Poole (Eglinton):** When I was listening to the parliamentary assistant's comments, I wondered where the documents were that she referred to about the use of private sector professionals and the entry for building inspectors, so I'm glad you asked that question.

Actually, those documents would have been very helpful to have prior to the commencement of clause-by-clause so that we could take that into account with our amendments, but since that was not available, we've had to go ahead and act without that information. It may necessitate some amendments to our own amendments once we've had an opportunity to peruse that material.

I don't think there's any doubt on the committee that the amendments to the Building Code Act are quite welcome and quite timely in that they have received a broad range of support from many groups in the industry. It has also become apparent that there were things that various sectors of the industry would like to see included in this bill and that there were others that were included that they would like to see eliminated from the bill.

I was somewhat disappointed on first perusal of the government amendments that most of the amendments do tend to be of a technical nature or housekeeping nature. There were several substantive issues that were brought up during the hearings which I don't believe the government motions have addressed. The Liberals have tabled a number of amendments with the committee today, and they range from some of a housekeeping technical nature to others of a more substantive nature.

We have relied on a number of presentations from our witnesses which we found extremely helpful, including the Canadian Bar Association, the Large Municipalities Chief Building Officials group, the Ontario Home Builders' Association, the Urban Development Institute, Toronto Area Chief Building Officials Committee, which is the group of municipal inspectors, the Price Club and the Fair Rental Policy Organization as far as our amendments are concerned. We express our appreciation to all those groups for their input.

I would like just to very briefly touch on some of the amendments that we will be introducing during this clause-by-clause, one I believe that the government was also concerned with and this is applicable law. This was not only by the Canadian Bar Association but by a number of other groups that felt they would like this to be defined to clear up any inconsistencies. We'll have to take a look at our motion vis-à-vis the government motion to see which one would be the most acceptable. I think I know the answer to that question, but we'll ask it anyway.

Secondly, the Large Municipalities Chief Building Officials group did bring forward an argument that it wanted the moneys from the building permits to be put

towards the anticipated cost to the municipality for the administration and enforcement of this act. They wanted a direct relationship and they wanted it spelled out in the act. We have incorporated an amendment to do that.

The Ontario Home Builders' Association brought forward what I thought was a very good point in that the legislation right now requires that all structures built under part 9 of the building code be required to submit as-built drawings. It was brought to our attention that with small residential structures this would necessitate quite an additional cost, since those plans tended to change dramatically, in many cases, from the time they were first drawn up. It had suggested there be an exemption for these small residential structures, so we have an amendment for that.

### 1330

The Urban Development Institute of Ontario suggested that clause 8(10)(d) was actually redundant since there was already a clause in here which dealt with issuing an incorrect building permit, so it felt this didn't need to be in there.

TACBOC went back to Bill 103. There was a section in Bill 103, which was the legislation introduced by the Liberal government in the previous session that did not receive passage before the September 1990 election. The municipalities very much liked the section that allowed an inspector to enter without a warrant to determine if a permit is required, and we heard from a number of municipal submissions that they would very much like to see that back in. So we have an amendment to that, and we actually have several related amendments which I won't go into at this time.

The Price Club had a very interesting submission where it cited a case where the requirements of the Building Code Act actually put it at a disadvantage with its competitors because its competitors were allegedly using the legislation to try to stifle competition. It seemed to me that it had made a very good case in two regards. One was that there was a section in the act where anybody who considered himself to be aggrieved could appeal—not that there had to be any substantive issue there. There didn't have to be any proof before a judge that this person was aggrieved. All you had to do was consider yourself aggrieved and automatically you could appeal and stay the action of having the building constructed. So that was one amendment. The second related to the fact that there is an automatic stay on appeal and it shouldn't be required unless the judge, in the judge's opinion, felt this was necessary.

A number of associations—in fact, the majority of the associations—brought forward suggestions to reincorporate into Bill 112 the provision in Bill 103, the previous legislation, that the certified professional program be adopted. This was supported by the Urban Development Institute, the Ontario Home Builders' Association, the Canadian Bar Association, and I believe a couple of others as well. It seems to me that in this time where we are trying to make government and the arms of government more efficient and more cost-effective, this would be an extremely timely thing to do.



The final amendments have to do with the concern about bringing existing buildings under the code. This seems to have been quite a controversial move. While there is some sympathy with the government's position that we must ensure that our existing buildings are safe, there is also a problem in that the government has not spelled out, with this legislation or the regulations to date, how they are going to do this, and it has caused enormous uncertainty in the residential building market and, if I might say, it has been one more blow to a sector that is already reeling.

Until such time as the government does come up with a more concrete plan, it is our recommendation that it delete this section and then either have a separate piece of legislation, obviously a very brief piece of legislation, which would outline exactly how it's going to incorporate existing buildings into the scheme of the Building Code Act, or it could amend this specific act at a later date to do so. But to just throw that in and then to say they're going to be consulting over the next long while to ensure that existing buildings are covered and that it works well is not a sufficient guarantee to the industry right now. They are very upset with this, and they feel they need some sense of certainty from the government.

That is a brief capsule of the Liberal amendments.

We commend the government for continuing with the Liberal initiative of amending the Building Code Act. Certainly, many parts of this are quite welcome. We hope the government will be amenable to looking at some of the amendments we propose and that the Conservative Party proposes to make this a Building Code Act that the province and the industries in the province can really rely on over the coming years.

**Mr David Tilson (Dufferin-Peel):** Perhaps I could say a few words. Mrs Harrington has been detained for a moment, but we have discussed—

**The Chair:** Just for the record, it's Mrs Marland.

**Ms Poole:** Wrong Margaret.

**Mr Tilson:** Sure; wrong Margaret. My initial observations with respect to this bill and the process as to how we have arrived here is that they give me some concern. These hearings, of course, are rather expensive, with all the staff and all the expense that goes into a four-day hearing. I look at the bill and I look at the amendments that have been put forward by the government, although I have just perused them; I haven't read them in detail, but certainly I understand the substance of them. They are, as Mrs Harrington has indicated, of a rather technical nature.

I must say I would have hoped that this type of proceeding we have gone through could have gone through committee of the whole as opposed to having these formal hearings as such. Some time has been spent on the consultative process and how regulations are changed and how proposals are changed, and appeared to be consultation on a regular process, which goes back a number of years, although it appears that process needs to be improved, because on admission of the government, at least—the regulations with respect to the ungraded lumber.

That obviously didn't work; otherwise we probably wouldn't have been here. That appears to be the major concern of this bill at the outset, that farmers were concerned with being unable to use the type of lumber they do for their outbuildings. Mrs Harrington has indicated that this is being changed by regulation, and I hope we will see those regulations. We haven't been able to obtain them. We haven't been able to see them. That was the major concern of this bill from the very outset. Our party, at least, hasn't been able to see those specific regulations. I think it would be useful if the committee were to see those, since you did refer to them in your introductory remarks.

The major concerns of our party have to do with the subject of existing buildings. We feel that the amendments dealing with existing buildings—to repeat the submissions that were made by the Fair Rental Policy Organization of Ontario, they are going to create grave hardship to landlords, specifically when landlords have been restricted by Bill 4 and Bill 121, and this is adding to it. I'll be interested in hearing your debate on your amendments, but I don't believe they go far enough. I believe Ms Poole has adequately put forward what our position is, that this whole subject should be taken out of this legislation and if you're going to deal with it at all, you deal with it by separate legislation, because it is going to create unbelievable hardship and uncertainty in the landlord and tenant business.

With respect to certified professionals, I believe the proposals put forward in the previous bill by the previous government are satisfactory. You will see our amendments allowing for the certified professional to come into existence. It's not unusual, for example, for a municipality to retain a lawyer, notwithstanding the fact that the municipality already has a lawyer or legal staff on staff. They may have other people. They may have engineers, depending on the size of the municipality. It's not unusual for municipalities to hire outside staff. I won't get into that because we will be discussing that in clause-by-clause.

With respect to the search warrant subject, I repeat the comments made by Ms Poole that they should be for inspection purposes only and that the proposals that are being put forward in this bill for search warrants are really a repeat of Bill 121, very broad, general powers that enable searches to be made when perhaps they aren't warranted or necessary.

I won't delay the clause-by-clause debate other than to say that I am disappointed this bill has reached this forum. With a few exceptions—the Price Club people, and I think there was one other—I'd heard these submissions before, and I'm sure Mrs Harrington has, in her capacity as parliamentary assistant, and Ms Poole has as well, in her capacity as critic for the official opposition.

The positions that were being put forward were not new, and it's unfortunate that we couldn't be dealing with other matters in this committee, everything from the creation of jobs, the whole issue of apartments, the creation of newer apartments and single-family units to the effect of non-profit housing—that subject is gradually becoming more and more controversial—and dealing with other such matters as the concerns of encouraging owners of buildings,



landlords, to renovate very old housing stock, because so far, with the existing legislation, if anything they are being discouraged from upgrading the quality of life for the tenants of this province. Those are my preliminary remarks, and I look forward to the clause-by-clause session.

**The Chair:** I'm going to call a very brief recess. The clerk has gone to put the amendments into an integrated order and she will be back momentarily. I think others may benefit from the time just to peruse the amendments they haven't seen. We'll take a short recess, and as soon as the clerk is back we'll head right into the clause-by-clause.

The committee recessed at 1344.

1357

Section 1:

**The Chair:** If we could begin our deliberations then on clause-by-clause. I believe everyone has now received from the clerk a copy of all of the amendments integrated according to the various numbers and we will begin at the beginning, which seems like a sensible thing to do. So we are now with Bill 112, subsection 1(1), and I have two amendments and we'll start with Ms Poole.

Ms Poole moves that subsection 1(1) of the bill be amended by adding the following definition:

"'applicable law' means the statutes and regulations prescribed in the regulations, agreements entered into by a municipality under the Planning Act and municipal bylaws."

Just before you begin your comments on that, I note there is a Progressive Conservative motion that is similar, albeit somewhat different, so we will deal with your amendment first.

**Ms Poole:** Thank you, Mr Chair. I think the intent of both the Conservative motion and our own is quite similar. It was in reaction to a number of the presenters, including the Canadian Bar Association, which suggested that "applicable law" should be defined so that there would be no mistaking what the act meant by it.

The government has decided to deal with this through amendment by looking at subsection (27) and it just expanded the right of the regulations to define anything that the government deemed needing definition, but I think the consensus of those who addressed this particular issue was that they would like it spelled out actually in the legislation, as opposed to being in the regulation where it could be changed basically at the whim of government. So I would submit that it would be certainly preferential from our viewpoint to define "applicable law" specifically in the act, as opposed to leaving it to the regulations, which I believe is the intent of the government, if I'm not mistaken.

**The Chair:** Mr Tilson, do you wish to comment on the Liberal amendment or do you wish to wait until you—

**Mr Tilson:** I will support it, although I believe the Conservative motion is somewhat clearer. Certainly, the Liberal motion and the Conservative motion take a similar type of position, although the wording is somewhat different. I would only like to repeat the concern I have of delegating too much to the regulations.

The delegations that came before us were concerned with certainty, which is why this whole issue of what "applicable law" means arose, and consistency. As I understand it, what the government is doing is saying, "Oh well, we'll see how the regulations go and we may change it from time to time." I have difficulty with that; specifically, I think it goes too far. It's one of those things that shouldn't be assigned to the regulations. I've forgotten which of the delegations made the submission that it wants certainty. They want to know what "applicable law" means and they don't know when they look at the building code. They don't know because on a given day it may mean one thing and on another day it may mean something else.

I can only reiterate as to the confusion that can be caused by regulations by mentioning the ungraded lumber regulation. As I understand it, that still hasn't been passed and won't be until after this bill has been passed. We still cannot tell the farmers of this province what that change will be, and I tie it into this the assigning of the definition of "applicable law" to the regulations. I believe we should have more certainty for this type of expression so, in short, I would support the Liberal amendment, although I would prefer the Conservative amendment be passed in its stead.

**Ms Harrington:** As both critics have pointed out, the government has addressed this concern brought forward by the presenters with regard to applicable law and it is in subsection 34(1), paragraph 4, I believe.

To respond to some of the comments made by Mr Tilson, we do want certainty; that was the concern brought forward in wanting a definition. We do want it to be clear and we don't want it to be changed from time to time, creating that kind of uncertainty you're talking about. We believe what we have addressed does answer that problem.

I would ask our legal counsel, Colleen Parrish, to explain what we are doing.

**The Chair:** Would you come forward and identify yourself for Hansard.

**Ms Colleen Parrish:** I am Colleen Parrish, director of legal services at the Ministry of Housing. My understanding is that the main difference between the amendments proposed by both the Liberals and the Progressive Conservative parties is they provide for applicable laws to be listed by statute, which has the same effect as the amendment proposed by the government, but they also refer to agreements entered into by municipalities under the Planning Act and municipal bylaws. Certainly, those things can be prescribed by regulation, and since all of the amendments have the effect of creating regulation-making powers, there's always some degree of uncertainty. It is more consistent to prescribe this by regulation, because the whole building code is prescribed by regulation.

I'd also point out that the Liberal motion deals with municipal bylaws and there is quite a bit of uncertainty as to what those could be. Municipalities can pass bylaws other than under the Planning Act, so in the Liberal motion it would be unclear as to what that would be. The Progressive Conservative motion defines it more specifically as to bylaws passed under the Planning Act.

I think my clients felt that it was more appropriate to have everything defined by regulation and you'd have one-stop shopping where everybody could say, "Here are all the applicable laws, listed in a regulation." Instead of having to go from the statute for some things to the regulations for something else, you'd have essentially a code, as you have in the building code. Most of the standards in the building code are in the same place, and the people who administer the building code are by and large not lawyers, so they tend to look to the building code to see every piece of information. From a sort of public service or consumer service viewpoint, it's better to put it all together in one place.

But I would also just comment as an aside that the issue about what municipal bylaws these are in the Liberal amendment does give me some pause, as this could be a parking bylaw or all kinds of bylaws which municipalities pass other than under the Planning Act. I hope that's not too convoluted an explanation.

**Ms Harrington:** To conclude, I believe that what we are doing is trying to make it very clear and answer the concerns of the presenters to us.

**The Chair:** Any further comments on subsection 1(1)? If not, I would put the question and ask, shall subsection 1(1) of the bill carry?

**Interjection:** Carried.

**The Chair:** Wait. Sorry, excuse me. First of all, shall the amendment by Ms Poole carry? Just again I'll repeat, shall the amendment by Ms Poole to subsection 1(1) of the bill carry? All those in favour? Opposed?

Motion negatived.

**The Chair:** Mr Tilson, are you withdrawing your motion?

**Mr Tilson:** Although it appears that the die is cast, I do feel that the Progressive Conservative motion explains in a little bit more detail what the opposition is putting forward, so I accordingly would not withdraw it.

**The Chair:** Mr Tilson moves that subsection 1(1) of the bill be amended by the inclusion of the following definition:

"'Applicable law' means the Building Code Act, the building code, municipal bylaws and agreements entered into by a municipality under the Planning Act where the Planning Act authorized the entering into of such agreements, and the statutes and regulations enumerated in the regulations."

Is there any discussion on this amendment?

**Mr Tilson:** I can only emphasize again, obviously there's a philosophy as to what we should do by regulation and what we shouldn't, and when you look at the definition section of the bill, it does talk about, generally, names of positions and there's a section dealing with "plumbing" and there's a section dealing with "construct." This is the type of definition I feel should be in the building code and not left to the regulations.

It's fine when Ms Parrish says that the builders and developers all look at the code, and I understand that, but I

think I can only emphasize that the question of "certainty" is the word that should be emphasized.

When you do something by regulation, has the regulation been passed? The rumour that the ungraded lumber regulation has been passed: Well, we find out today that it hasn't been passed, that it's not as the government said, that it has not been passed and probably won't be until after this bill is passed. We don't even know what the wording is. So we hear rumours that something's going to change and maybe it will and maybe it won't.

Obviously there are certain things that need to be done by regulation; otherwise the House would come to a complete stop. But I think this is one of those definitions that needs to be defined, and I can only repeat the submissions that were made by the delegations before us. They wished certainty. Building inspectors wished certainty, but when governing by regulations there is a certain amount of uncertainty. So I would ask that the committee consider the Progressive Conservative amendment.

1410

**The Chair:** Ms Poole, any further comments?

**Ms Poole:** Not to belabour the point, I think Mr Tilson has well made the point that the more you can have actually in the legislation as opposed to the regulations, the greater the certainty and also, quite frankly, the less the temptation by government to arbitrarily and at whim amend things by regulation. So I very much support the amendment brought forward by Mr Tilson, although I fear to tell him it is doomed to fail.

**Mr Tilson:** No, say it ain't so.

**Ms Poole:** I'm afraid it's so, Mr Tilson, but the Liberal caucus will support you in your failing endeavour.

**The Chair:** Ms Harrington, any comment?

**Ms Harrington:** No, I think we've made our position clear.

**The Chair:** Then I'll put the question. Shall the Progressive Conservative motion, the amendment to subsection 1(1), carry? All in favour? All opposed?

Motion negatived.

**Mr Anthony Perruzza (Downsview):** Mr Chairman, I'm sorry, that happened all so fast.

**The Chair:** Sorry.

**Mr Perruzza:** On a point of order, Mr Chairman: I really wasn't clear on what the motion was.

**The Chair:** That was the Progressive Conservative amendment to the government bill.

**Mr Tilson:** Do you want me to speak louder, Tony?

**Mr Perruzza:** Yes, please.

**The Chair:** The Progressive Conservative amendment was defeated.

**Mr Hans Daigeler (Nepean):** We could try again.

**Mr Perruzza:** Mr Chairman, I didn't vote either for or against.

**The Chair:** It was still defeated by the numbers present.

**Mr Daigeler:** Let's have another vote.



**The Chair:** Now, shall subsection 1(1) carry? Opposed? Carried.

Shall subsection 1(2) of the bill carry? Opposed? Carried.

**Ms Poole:** On a point of order, Mr Chair: Before we get too deeply into the bill, one of the Liberal motions to subsection 25(7) is missing from the amalgamated package. I just wanted to mention it at this time. It was in the package handed out by the clerk this morning, but I can't find it in my amalgamated package.

**The Chair:** There's a gremlin at work.

**Ms Poole:** Stealing Liberal motions.

**The Chair:** We will find it. As we go through, if anybody identifies another one that's been left out, please bring it to the attention of the Chair. The clerk, in her usual ubiquitous fashion, will make it appear very quickly.

We have passed subsections 1(1) and 1(2). I can't remember whether I put this, but shall section 1 of the bill carry?

Section 1 agreed to.

**The Chair:** I then propose to move on. The next amendment will deal with section 7, so we'll deal first with sections 2 to 6.

Sections 2 to 6, inclusive, agreed to.

Section 7:

**The Chair:** Now, section 7: We have several amendments: two amendments, I believe, on clause 7(c) and one on clause 7(g). I will ask Ms Poole to move her amendment, first of all, to clause 7(c).

Ms Poole moves that clause 7(c) of the bill be amended by adding at the end "which shall be designed and used to meet only the anticipated cost to the municipality for the administration and enforcement of this act, the building code and other applicable law referred to in clause 8(3)(a)."

Any comments on that amendment, please?

**Ms Poole:** Several of the municipal groups brought forward this particular point. I think the Large Municipalities Chief Building Officials group mentioned that it was concerned with the growing tendency of government to charge fees that bore no relationship to the actual cost of administration and enforcement.

They would very much like to see spelled out in this act that the fees that are collected shall be designed and used to meet only the anticipated cost to the municipality of the administration and of the enforcement. I think this is a very reasonable amendment and I'm very much hopeful that the government might see its way clear to supporting it.

**The Chair:** Mr Tilson, any comments on the Liberal motion?

**Mr Tilson:** I think it is as well similar to the Conservative amendment. I indicated when the delegations were making their submissions that it brings to mind the whole arguments that have been going on for the last number of years and the subject of lot levies and what applies to what. What is a lot levy for and, similarly, what is a fee for?

I would support the Liberal amendment. The point that was made by the Large Municipalities Chief Building Officials is certainly well taken, and the topic does need to be clarified. I'm disappointed the government didn't agree on this position, because certainly this is a similar position. If you could compare this debate to the debate that has gone on in the past with respect to lot levies, they are really quite similar. If I recall some of the comments that have been made by members in the New Democratic Party in the past, these things do need to be made more clear. Without an amendment such as this, they're not. So I would support the Liberal amendment.

**The Chair:** Any further comments? Mrs Harrington?

**Ms Harrington:** Yes, thank you.

**The Chair:** Just a moment. Mrs Marland, we're on clause 7(c), and I hope you have an integrated package of all the amendments there.

**Mrs Margaret Marland (Mississauga South):** Thank you, Mr Chairman. I'm apologizing for being late, but since the committee schedule was changed, I couldn't change my own to accommodate the last-minute change by the Chair, which I accepted as being necessary.

**The Chair:** Thank you. We're dealing with clause 7(c).

**Ms Harrington:** This matter of the fees and where they are used was brought up by the presenters two weeks ago. It is actually a broader issue than just the building permit fees. It is government policy at this particular time that the autonomy of moneys collected by municipalities is then to be left with municipalities as to how that money is spent. To change that, I believe, would have to be a larger issue with the Ministry of Municipal Affairs, and at this point in time we are not able to do that.

**Mr Tilson:** I don't know what you mean by "a larger issue." The fact is that there has been confusion that has been put forward in the delegations as to where these fees go, where they're applied to. Either the ministry—and I say "the ministry"—your government's philosophy agrees with that or it doesn't. If you don't agree with it, hopefully you would put forward some sort of rationale. Because it's quite clear to me that they believe there is uncertainty. These delegations do not believe that these fees are going to what they say they're going for.

**Ms Harrington:** What I'm pointing out is that at this time it is up to municipalities to decide where those fees go, and we, as a provincial government, are not interfering with that. If we were to, then we would have to look at a whole lot of other licensing fees and other municipal matters which would have to be dealt with through the Ministry of Municipal Affairs.

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**Mr Tilson:** I understand that, although currently we're dealing with the building code. On this specific subject there has been a concern that fees that are being charged aren't being applied towards administrative fees. You may well be right. Maybe it's a mind-boggling thing, every fee that's charged by a municipality. That's why we pass these



bills, to give direction to the municipalities as to how they're going to be charging their fees.

As I say, I can only express my disappointment that the government hasn't taken the lead in supporting this type of amendment or some similar type of amendment.

**The Chair:** Mr Mammoliti and then Ms Poole.

**Ms Harrington:** He's not here.

**Mr Perruzza:** Mr Perruzza. Mammoliti's the other guy.

**Mr Tilson:** They only look the same.

**The Chair:** My apologies, Mr Perruzza.

**Mr Perruzza:** Mr Chairman, through you to Mrs Harrington, I'm wondering how this amendment would impact on legislation that was essentially passed by the Liberals that enables municipalities to tailor a policy around zoning application and the issuance of building permits where municipalities can develop policies that would require developers to pay for infrastructure improvements. I don't know of any municipality in Ontario that has developed that policy yet, but there is legislation in place that essentially permits them to do that.

In light of that, why would you propose an amendment now saying that the moneys they raise through the issuance of permits only be applied to the administration of that particular department?

**The Chair:** That question is directed at Ms Poole, I sense.

**Mr Perruzza:** Well, I'd really like to know how this would impact on legislation that's on the books now.

**Ms Poole:** Perhaps I could clarify that this is a very different issue than the issue of lot levies, for instance, and developmental charges. The issue in this particular instance, which is, I think, as Mrs Harrington said, becoming a wider one among the public, is if there is a fee that is being charged for a building permit, then it should bear some fairly close resemblance to what the administrative cost is or the cost of enforcement. In other words, you're paying for what you get. There has been a growing tendency for all levels of government, to be perfectly honest, to try to use permits as a method of revenue as opposed to a method of paying for what they're delivering at that particular juncture.

I think it is becoming a bit of a festering sore at the municipal levels and I think it's growing to the provincial level. Recently we've had a lot of anxiety because certain things that are called environmental levies, for instance, do not actually go back—the revenues do not go back—to the environment. That's the broader sense of the issue.

But for this very specific one, we're supporting the municipalities when they say that if a municipality is charging a fee for the permit, then surely the fee for the permit should closely resemble what that's going to deliver to that person, and what it's going to deliver is administration and enforcement. I can certainly understand the municipal officials' desire to have it really spelled out quite closely what this is.

The other thing it would do is give some sort of more even uniformity across the province, because obviously

the administration costs might differ from municipality to municipality. But the way it is right now, any municipality might set whatever fee it wanted to, so you might pay 100 times in one municipality for a building permit as you do in another. I don't think that kind of thing is terribly fair, and it's obvious in that instance that the municipality has decided to use it as a source of revenue rather than to deliver what services are needed. So that is the issue.

I don't personally see that it would impact on things such as lot levies. That is a bit of a different issue, the same concept in a way, but we're talking specifically licensing fees, permits and that type of thing.

**Mr Perruzza:** I understand what you're talking about, but why wouldn't you let municipalities, which understand land values much better than we do sort of from a macro perspective—they understand it from a micro. If land values are such that developers are reaping such enormous profits, and I'm talking about boom times now, why wouldn't you allow them a little more flexibility to recoup some of their administration costs and recoup some moneys for other essential services that they face, that they have to pay for sort of on a daily basis? Why would you hamper them in that way?

**Ms Poole:** I guess the short answer is that the municipalities should be entitled to recoup their administration costs, and in fact that is what this amendment proposes. It's going beyond that. It's when the municipality wants to pay for something else entirely different, such as putting in more police or whatever, but using revenues from the building permits to do it. I think what they're really asking for is that there be some relationship between the fee and what the fee is meant to pay for.

**Mr Perruzza:** Now I understand. Now I'm a little clearer on it. Thank you very much. I can't support it, Mr Chairman.

**Ms Poole:** After my eloquence.

**The Chair:** Any further discussion on the amendment?

**Ms Harrington:** Just one conclusion. I would like to say that we do recognize the concern of the presenters who came before us that the fee should relate to the actual service delivered. At this time we are not going to interfere with the autonomy of the municipalities, which is a broader issue.

**The Chair:** Shall the Liberal amendment to clause 7(c) carry? Those opposed?

Motion negatived.

**The Chair:** We then have a further amendment to clause 7(c) by the Progressive Conservatives.

**Mr Tilson:** Again I think the Liberal Party's position and our position are very similar, although I think ours is somewhat, with respect, a little bit more clear.

**The Chair:** Mr Tilson moves that clause 7(c) of the bill be struck out and the following substituted:

"(c) requiring the payment of fees on applications for and issuance of permits and prescribing the amounts thereof and such fees shall be designed and used to meet only the anticipated cost to the municipality for the administration

and enforcement of this act and regulations, and any applicable law."

**Mr Tilson:** Mr Chairman, could I speak to that?

**The Chair:** Yes.

**Mr Tilson:** I think the submissions that were made with the Liberal amendment apply to this one as well, although I think it is somewhat more clear. I remind members of the committee to refer to the submission, written and oral, of the Large Municipalities Chief Building Officials group. They spoke at some length on this and pointed out the need for some uniformity and consistency across the province. They submitted, as you can recall, that:

"A number of the municipalities are setting fees based on whatever the market will bear"—I'm reading from the written submission—"and surplus funds collected are used for general municipal purposes. They are not put into reserve funds and earmarked for the administration and enforcement of the building code."

I'm going to read the following paragraph for my submission, because this expresses the intent of this amendment:

"It is the opinion of our group that the intent of the Legislature in 1974"—which is when the Building Code Act was amended—"was to provide not only for uniform building regulations, but also uniform enforcement across the province. Concern has also been expressed by the Ministry of Housing on the level of service and enforcement provided by some municipalities. The ministry has also stated that the fees authorized by clause 5(2)(c) of the act and their relationship to the cost of providing services under the act is somewhat unclear."

"We believe it is time that the legislation is amended to make it clear to all municipalities what building permit fees are to be used for."

That is the intent: that these fees that are being charged by municipalities be used strictly for these administration costs and not be put to other purposes, which we believe, as do the building officials, people do on a daily basis. That's why we feel that this amendment should carry.

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**The Chair:** Any further comments? In that case, I'll put the question. Shall the Progressive Conservative amendment to clause 7(c) carry? Opposed?

Motion negatived.

**The Chair:** We will move to the next amendment, which is a Liberal amendment to clause 7(g).

Ms Poole moves that clause 7(g) of the bill be struck out and the following substituted:

"(g) enabling the chief building official to require that a set of plans for a building or any class of buildings as constructed, except residential structures that are less than three storeys and six hundred square metres, be filed with the chief building official on completion of the construction under such conditions as may be prescribed in the building code;"

Any discussion, Ms Poole?

**Ms Poole:** Yes. I would like to give a brief explanation as to the rationale for this particular amendment. The

Ontario Home Builders' Association was quite concerned that amendments to the building code should not substantially add to the cost of building new residential structures. The point they made is that the requirement for as-built drawings is quite understandable in commercial buildings or public buildings and large buildings; for safety reasons, for fire reasons, for emergencies, it was very important that they know where exits were and this type of thing.

But they saw no reason for it to be incorporated for small residential buildings, ie, the average home where there is no rationale for it to be on file in an as-built situation, where in a number of cases the drawings and the plans do vary from what was originally submitted because people who are building homes, home owners, are notoriously anxious to have the best product and quite often change their mind about where this door is or that window or whatever.

It would add, I believe, quite a cost to the construction of a new home to require as-built drawings to be submitted, particularly where there were changes made. So it would seem to be reasonable to exempt small residential structures from this particular section. If the government is not willing to consider this, perhaps it could explain why it is necessary to have the small residential structure incorporated in this particular section of the act. What purpose does it serve?

**The Chair:** Any further comments on the Liberal amendment to clause 7(g)?

**Mrs Marland:** I'm interested to hear what the government's response to this is. I'm considering the safety of firefighters. I recognize when there's a fire in a single-family dwelling that the fire department doesn't immediately punch in on the computer the plans for that building. So it's not that aspect that I'm concerned about, because if it's a non-commercial building and, as it says here, "less than three storeys and six hundred square metres," we're not concerned about major egress and access points for that building, but I am concerned down the road for an owner of that private dwelling who comes to make modifications or changes to that building.

I can give you a perfect example in our own municipality of Mississauga. We had a great fire, I think in 1968. I've forgotten actually what year it was; a little bit before I got into the political scene in Mississauga. In any case, all the plans that were on file in Mississauga were destroyed. Now people who are wanting to make modifications to these buildings can't go back to the building department and find out very easily, through a reference point, exactly how their building was built or where main connections are to municipal services, which for the most part are not destroyed by fire in the long term. If they're not on file somewhere, then when somebody comes to either make a renovation or an addition or make any changes at all to his building, he can't go back to the city and find out how his building was planned and designed.

I recognize Ms Poole's argument, repeating the argument the deputation made—were you saying it was the Urban Development Institute, Dianne?



**Ms Poole:** No, it was the Ontario Home Builders' Association.

**Mrs Marland:** I heard that presentation and I know its argument is that very often the building permit is issued based on one set of plans and drawings and then the home owner decides he wants to make some modifications and changes. I think where that happens, the cost has to be borne by the person requesting the changes.

I agree with the Ontario Home Builders' Association that it shouldn't be asked to recirculate another 20 copies of the plans of the as-built form at its expense, but I think where a home owner applies for a building permit and gets a building permit based on a certain set of plans that talk about everything in that house—the electrical installation, the plumbing, the heating, the air conditioning—all the mechanical aspects, let alone the structural aspects of that home, are on record for future home owners.

If the plans are changed after the issuance of the building permit, I think it begs quite an important question here. The building permit is issued on the basis that everything in that building will work. That's why, further in this bill, we're increasing the penalty for people who build without building permits, because there is no certification for that future home owner or purchaser that anything in the building is going to work, that the heat is going to go to the far end of the building from where the furnace is or that the air flow is going to work in terms of the volume of space in different rooms and so forth.

If we're going to say that it's okay to change plans after the building permit is issued, which I think is what we're talking about, then what we're saying is that the building permit, the certificate that this building complies with the building code, perhaps doesn't stand up any more.

I don't know. Maybe Ms Harrington can tell us. If I'm having a house built and I get my building permit from the municipality based on the plans I submit, is there any limit or control on the number or kinds of changes I can request after I've had the building permit issued?

**The Chair:** Ms Harrington, to respond to that question.

**Ms Harrington:** Just to make it clear, this is an amendment put forward by the Liberal Party.

**Mrs Marland:** I know.

**Ms Harrington:** In order to exempt these residential structures from having to have the—

**Mrs Marland:** As-built plans.

**Ms Harrington:** The as-built plans. The rationale, I gather from that, is the cost the home builders brought forward to us.

**Mrs Marland:** Right.

**Ms Harrington:** I would really like our staff to address your specific question about how many changes, but I also would ask them at this point in time to address the question of the residential dwellings and the as-built plans because we recognize the problem and I believe there is some provision in the regulations. I'd ask Mr Wildish if he could answer both concerns.

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**Mr George Wildish:** There's been a provision, as you know, in the Building Code Act for some years for as-constructed plans and it provided that they should be as laid out in the regulations. Nothing was ever put in the regulations, so we've never had this provision for as-constructed plans in operation. The current bill was to take care of that. In fact, municipalities—

**Mrs Marland:** We haven't had the requirement. Is that what you're saying?

**Mr Wildish:** The act provided for it, but no regulations put it into effect, so we've never had as-constructed plans as an operating provision.

**Mrs Marland:** I don't mean to interrupt you. I just want to understand you as you're going along. The practice today is that you apply for a building permit with this set of drawings, you get a building permit on that set of drawings and if you change the building totally, the city may not know about it.

**Mr Wildish:** On that particular point, if you wish to change your plans, you have to let the building official know and he has to approve the change. You aren't allowed to change the drawings and specs without approval of the municipality.

**Mrs Marland:** Okay, but I can do that all outside of the building department and the building department may never look at those plans again: Is that it?

**Mr Wildish:** No. Having received a permit based on a certain set of plans, you are not allowed to deviate from those plans without going back to the building official, telling him what you wish to do and getting his approval.

**Mrs Marland:** Okay, but he doesn't keep the modifications to the plan on file.

**Mr Wildish:** The filing practices vary a good deal from municipality to municipality.

**Mrs Marland:** Tell me.

**Mr Wildish:** Municipalities, with this provision, wouldn't institute the idea of getting as-constructed plans for everything. They'd be swamped with plans. They don't want them. They wouldn't want to spend their time reviewing them if they did come in. They really want as-constructed plans for those odd occasions when something has gone wrong: It looks suspicious. They weren't able to inspect. They didn't know where something went because the original plans weren't specific, like the location of a drain line across a property or something. When it's installed, they want the contractor to draw on the plans that it went in a certain area, a certain way, and then that would be filed with the municipality. They certainly do not want as-constructed plans for every building. It would be a terrible burden for them to handle.

The provision here is, then, that once a bylaw is passed by a municipality giving some strength, power, to the municipal building official, he or she may then ask for as-constructed plans for those particular cases where they want them, but not a general thing.

**Mrs Marland:** In the days of this wonderful computer age, with microfiche and everything, why is it such a



problem? I have seen people dig up their whole front lawn, trying to find where their water line was or their sewer connection, or at the back if they've wanted to put in a pool or they've wanted to take down a tree, all kinds of things, and that information hasn't been available. I hear what you're saying and I'm sympathetic to the fact that, no, there's no way the municipality could have bins and bins and drawers and drawers of drawings. But in the computer age, is that still a problem?

**Mr Wildish:** I can give you my opinion of that. I can't speak for municipalities, but I could tell you what I think. Some municipalities may indeed think this was a good thing to do—buy a microfiche or whatever way—and might set up that provision, but they would probably be recognizing that it's a little extra cost for builders and other people. They'd be laying that on their municipality and they might think that's not such a good idea from that point of view. It's one of those things we leave to municipalities by giving them the power to strike a bylaw as they see fit to give their chief building officials such powers as they wish to and let it operate that way. But you're right that a municipality could go the full high-tech way and just start putting everything on microfiche if it chose to.

**Mrs Marland:** So this Liberal motion is not giving the municipality the option for small buildings.

**Mr Wildish:** The Liberal motion?

**Mrs Marland:** This Liberal motion that we're debating now applies only to large buildings.

**Ms Harrington:** My understanding is that it takes away the right that we are giving to municipalities to decide if they want to have these plans, and it's taking away that right for the smaller, residential buildings.

**Mrs Marland:** Do you agree with still having it for large buildings, then? I'm asking the Liberals.

**Ms Poole:** Perhaps the Conservative critic didn't hear the portion where I addressed what we were talking about. It wasn't so much large and small. It was referring to commercial buildings and industrial buildings, buildings of a different nature. What we're talking about here is residential. But we're not talking about a multiresidential apartment building; we're talking about your average home that would be exempted.

**Mrs Marland:** Can you excuse us, Mr Chair, exchanging back and forth? We're really going through the Chair.

**The Chair:** It helps to clarify and the Chair is quite pleased to let you do that.

**Mrs Marland:** The Chair is giving us permission to speak to each other.

The motion says "less than three storeys." There are a lot of town house, multifamily unit constructions that are less than three storeys. How much is 600 square metres?

**Ms Poole:** It would be about 2,000 square feet, I think.

**Mrs Marland:** Your concern is only commercial and industrial buildings, not residential buildings?

**Ms Poole:** That's right. The concern the Liberal caucus had when we tabled this particular motion was that it may place an undue burden on the single-family home. If they make changes, a municipality would have the right to automatically require, in every circumstance, that they file as-built plans, which, as you just heard from Mr Wildish, right now is not the case where they are required to file the new set of plans.

The home builders were concerned that this would add a significant amount to building new homes. One of their major premises throughout their entire brief was that the construction industry right now is not in very good shape and anything that added substantially to the cost of building those homes without any benefit on the other side should be avoided.

I don't think what we're asking for is terribly dramatic. We understood that one of the major reasons for requiring as-built plans for larger buildings would be for egress in the event of an emergency, fire or safety. We're just not convinced there is the same necessity for your average home.

**The Chair:** I have some further questions on the same motion. Might I go to those and then we can come back?

**Ms Poole:** Sure.

**Mrs Marland:** That's fine.

**Mr Perruzza:** I'm really not clear on what the new change—the clause (g) that's in the bill—does as opposed to what we have now, because the way I understand it and the way it operates now, if somebody is building a house and during the process of construction he's submitted plans for a conventional roof structure—and this happens to be, quite often, a change that happens—and during the process of construction he discovers that an engineered roof truss design is substantially cheaper in getting—quite often it's the lumber company which supplies the engineered-truss designs, which the individual can then submit to the municipality for approval. Then the building department reviews those designs, and, if they are conformed with, they're generally allowed to happen with the building inspector.

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The municipality, at that point, keeps a copy of that change and files it with the drawings that are submitted. At that point the builder can proceed and build the home according to the changes that had been approved by the building inspector, reviewed and accepted by the building department and put on file.

If I am to understand this clause (g) as is in the bill, that individual would be required at this point to go out and get his or her architect to redraw the drawings. Why would we require just an individual, a home owner—because generally with big builders and subdivisions and things like that, that's something they do right off the bat, and they generally don't make that change. If they do make that change, they resubmit new drawings. But why would we require that one individual to go out and have to pay the architect another \$2,000 or \$3,000 to redraw their plans and submit a new plan when that change has been submitted to and approved and accepted by the city, when

they made it, at no additional cost to them? Why would you get them to pay for it twice, and does that do that?

**Ms Harrington:** I'd briefly like Mr Wildish to clarify for Mr Perruzza. The question is, if the municipality requires this, which they don't have to do now, does the home owner then have to redraw the total plan or submit only the change to that plan?

**Mr Wildish:** Maybe I should clarify something. At the present time, under the inspection powers in the present act, an inspector could ask for any drawings or information he wishes. So if he's uncertain of something, if something is not clear, he could ask for that information.

Under the present act, it provides for as-constructed plans. It says in the act "requiring that a set of plans of buildings as constructed be filed with the chief official on completion of the construction of buildings of such class or classes as prescribed by the regulations."

The point I made before is that nothing is prescribed in the regulations, and hence that as-constructed plan provision was inoperative. The new proposal corrects that and makes it not just the class of building; it could be even a single building.

To answer your question, then, as the project is going along, some change has occurred, or wishes to occur. The builder submits the change, as you were saying. The building official approves the change. That's fine. They may never ask for an as-constructed plan. But if something has happened—the building official is uncomfortable with what's going on. He arrives there and finds things have progressed further than he wished to see them progress. Maybe he didn't feel he was getting proper notification. Perhaps they've had a lot of trouble with this building. Perhaps things have been installed that weren't shown on the drawings in the first place; that is, as I mentioned earlier, location of some piping or something like that.

He could then ask the builder, the owner to provide a drawing showing those things. It would not have to be the whole set of drawings all redrawn again. If it was, say, just a line of ductwork, for example, he would just take his drawings and mark on the ductwork, "Satisfactory to the building official," and that will be sufficient. If the building official wanted more detail, he could ask for more detail.

**Mr Perruzza:** That basically leaves it very open-ended. In the amendment, what would the amendment do to that section? How would you interpret it? That's the amendment that has been proposed.

**Mr Wildish:** The building official would, by his council, have a bylaw passed giving him some general powers. The municipality, to follow up what was being said earlier, might restrict those powers so that he couldn't ask for small residential homes. On the other hand, they may say that he can ask for it for that purpose. But whatever powers they give him, that's what he would have. When he found a situation where he wanted as-constructed plans for some particular building, then he would ask for them and of course receive them.

**Mr Perruzza:** So what the amendment essentially does is leave it up to the municipality to structure a rule around the issue in terms of that.

**Mr Wildish:** Yes, that's right, and having structured the general provision, the building official would enforce that when he wanted it. He would very rarely want that in a blanket sense for all buildings, because as I mentioned earlier, he would be swamped with plans he didn't want to review. Once he has asked for them, he's more or less obliged to review them once they arrive, and he doesn't want that in general.

**Mr Tilson:** As I understand it, from what you've just said, Mr Wildish, the proposed amendment, clause 7(g), gives the municipality power to pass bylaws—that's in their discretion—for all buildings. As I understand it, the Liberal amendment is saying: "No, that's going too far. For the single-family dwelling, it's unreasonable."

I don't mean to put words into Ms Poole's mouth—I do it generally anyway—but it would seem to me that someone who is building a home changes his or her mind periodically, whether it's a roof, an enlargement to a room, or just making things bigger or smaller. That could happen periodically, and it happens very frequently. I'm not talking about the standard subdivision, but someone who has retained someone to build a home for them anywhere.

As I understand it, if a municipality were to pass a type of general bylaw—and I understand what you're saying, that they may or may not—the fact is you could have an overzealous building department that could say, "We must have plans for every building."

That is the intent, as I understand it, of the Liberal amendment, that that's going too far, that it means, number one, that every time there's a change—which could happen on the first week, in the second week, in the third week—you could have a whole series of changes in which the plans will have to be continually changed, although your words in your section say "as constructed," and I do understand that.

Maybe I'm looking for some input from Ms Poole. As I understand it, what she's saying is that this is going to add an undue cost to the residential private home builder. I would go one step further with a question to you: Would that therefore result in more bureaucracy to the municipality? Would that therefore mean there are yet more requirements that are going to be put forward on the individual building departments, whether they be large or small? My question, Mr Chairman, is to Ms Poole and to Mr Wildish.

**The Chair:** Okay. Mr Wildish, you may wish to respond and then Ms Poole can respond.

**Mr Wildish:** Contrary perhaps to popular belief, building officials are likeable people, and they do try to make the system work well. When it comes to residential properties going up, they're not interested in a lot of paperwork, I can assure you.

When private dwellings are going up like you were just talking about, we can all imagine situations where the owner says, "Gee, I wish I had put that partition two feet further over. It will fit my piano better. Let's do that. I'd like to move it over," or, "Let's move that window." I think



that's what you're referring to, buildings going up like that.

In those situations what should happen is that the owner or the builder should phone the building officials and say, "I want to check something with you." Then he marks on the drawing—and I'm thinking here of something quite simple. He takes a red pencil, marks on the drawing to move the partition over two feet, gets the building official to initial it and so on—approve it, in other words—and that's the end of that.

As was said here earlier by Anthony Perruzza, this is the kind of thing that happens all the time. The building official agrees to that change and it's built that way. When the building is all finished, there's no need for a set of additional plans. He's already got the plans. They're already marked up and initialled, and everybody is happy. So there shouldn't be any extra bureaucracy at work in what you're talking about.

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**Ms Poole:** I guess what I would say in response to both Mr Tilson's question and Mr Wildish's answer is that when we are looking at legislation we not only have to consider the intent of the legislation but also have to examine where it can go wrong. How can it be misused, abused? If they take the letter of the law, what is it going to mean?

The concern I have with the way this has given the chief building official the authority to require an as-constructed set of plans after the completion of the building, even for the average home, is that you may well have municipalities or chief building officials that make the decision that in every case they are going to require it. In that event, it is going to add significantly to the cost of many homes being built and add significantly to the bureaucracy.

Obviously, a municipality again could decide this was a wonderful way to raise money, to raise its revenues, to have a special fee for filing these as-constructed plans. Those are the types of instances that may not happen but that you have to guard against happening. That is the concern I have, not with the chief building official who in one particular instance feels that it's necessary to have the as-constructed plans, but with the other scenario, where the chief building official decides in all cases that he or she is going to require all residential structures to file as-constructed plans.

I guess that's where it is. I always like to ensure that when we are trying to look at legislation we look at all scenarios and make sure that the legislation doesn't create a problem instead of solving a problem. Did Mr Wildish want to comment on that?

**Mr Rosario Marchese (Fort York):** Ms Poole raises some good concerns, makes some good points. I thought what we could do is to stand this item down for tomorrow to allow the parliamentary assistant and the minister to review that and see whether we can come up with some wording that we can agree on tomorrow.

**The Chair:** Is that agreeable to everyone? If so, then we will stand it down.

**Mrs Marland:** I'm happy to set it down, but I just think while we're on a roll with getting the information out I'd like to finish that part and then set it down, so that I'm very clear about what goes on here.

**The Chair:** All right. Is that fine for you, Mr Marchese?

**Mr Marchese:** That's fine.

**Mrs Marland:** I've had it confirmed for me that the Liberal motion that refers to "residential structures less than three storeys and six hundred square metres" is actually 6,000 square feet. That 600 square metres isn't 2,000 square feet, it's 6,000 square feet. I want to tell you that a two-storey house that's 6,000 square feet is a huge house and therefore would be an enormous investment on the part of that home owner. If that home owner decides down the road that he wants to make modifications and changes, looking at the protection of the consumer, I think it would be great to know that as-built or as-constructed plans were on file.

I think the pivotal point here in clause 7(g), without Ms Poole's amendment, is the fact that, as it's printed in the bill, it says "as constructed be filed with the chief building official on completion." I don't see a whole lot of plans here. I know Ms Poole understands this, that you can't build 100 square feet without a building permit—I think that's correct—which is 10 by 10 feet. Anything that anyone is going to construct, other than a garden shed less than 10 by 10, is going to require drawings. It's not a new requirement that we're talking about here. As you've explained very well, you require plans to get a building permit. Am I also correct that those plans have to have an architect's and an engineer's stamp? No, okay.

**Mr Wildish:** Certain buildings, big buildings.

**Mrs Marland:** Okay. So the municipality uses its judgement in what plans it accepts to issue the building permit. Any modifications as they go along can be red-circled, red-lined, on that original set of plans. At the end of it, it doesn't mean a new set of plans being filed, it just means that those plans submitted for the building permit originally, with any amendments, are filed with the municipality.

I wish I had known a bit more about that when the Ontario Home Builders' Association was here. I would have asked them to tell us exactly what their argument was based on adding cost to a house because the initial cost is there anyway. If they have to have plans in any case to get a building permit, and I did hear—didn't they make one of those wonderful sexist comments about how women come along and want something changed in the kitchen or whatever? I know somehow we were blamed. Or maybe I've heard that argument before elsewhere and I wouldn't—

**Ms Poole:** I think I would've noticed that.

**Mrs Marland:** I don't want to blame them, but it's always women who get blamed for changes in house design as they're being built, generally. I think that because 7(g), as in the bill, leaves the option to the local municipality—correct? Then I think we're not putting a burden on the local municipality that it doesn't want, if it doesn't want it or if it can't afford it, and I don't see where the additional



cost to it is. Can you see an additional cost to the municipality?

The head-shaking doesn't come on Hansard, Mr Wildish.

**Mr Wildish:** If the municipality decides to go into this in a big way, it will have filing problems and reviewing problems, but if it doesn't go into it, of course, it doesn't have any costs.

The other point is that if they decided to ask for as-constructed plans for all subdivisions, all tract building of homes, which would lay an extra cost on the developer, the developer will be scared away to other municipalities. It's like all regulations. There's a competition going on here and municipalities and councils in general won't vote for something that lays on cost unnecessarily, I wouldn't think. We don't expect them to do this at all.

The other thing I should mention is that you note that the bill provides for a regulation here. The regulation sets down and governs how this will work.

**The Chair:** Could I just note that Ms Poole wanted to make a comment? It was suggested that we stand this down and work out wording, but we can continue this.

**Mrs Marland:** No. I'm happy to stand it down, Mr Chairman. I just wanted to make sure we all understood that we weren't asking for something that doesn't exist today in order to get that building permit at the beginning.

**The Chair:** Understood. Ms Poole, since it's your amendment, a last word.

**Ms Poole:** Yes. Just before we stand it down, there is some additional information I want to share with you, further to Mrs Marland's comments.

First of all, about the 600 square metres being so large, the logistical problem we had here is that legislative counsel did not want to reference part 9 of the act in this particular amendment, so we had to work backwards and look at what part 9 referred to. It referred to buildings either larger than 600 square metres or smaller than 600 square metres, so that was what we used.

Obviously, the intention is to cover the single-family home. I don't know—in the city of Toronto where I happen to live, there aren't too many 6,000-square-foot homes but I suppose out in Thornhill and Richmond Hill—

**Interjection:** No.

**Ms Poole:** No? We don't get that big. We don't have that particular scenario, but that was the reason for the cutoff, just to bring it in sync with part 9.

1510

The second concern that Mrs Marland had was that she said it's not a new requirement. Well, it is a new requirement in that it hasn't been enforced in previous years. In fact, it isn't a matter of the home owner just having to file changes to the plan, because that is required now. What this would require, if the chief building official decides it's necessary, is that there would be a new set of plans as constructed filed. This would entail costs. It would entail

the cost of having an architect draw up new plans, as Mr Perruzza pointed out. This is the type of thing that we're trying to avoid.

Our concern wasn't so much additional cost to the municipality, because it's within the municipality's prerogative to control that cost. They're the ones who make the decision. It was more the individual home owner's cost of having to provide a completely new set of plans. I don't want to belabour that, but I did want to put those few things on the record before we stood it down.

**The Chair:** We have agreed, then, to postpone our consideration of clause 7(g). What I propose to do, if the committee is agreeable, is that we begin again with section 7 when we come back and deal with this specific item. We have of course already dealt with the two previous amendments to section 7. We will stand down section 7 and come back to it first thing when we begin again in the morning.

Just before moving on to section 8, could I note that the questions that were referred to at the outset in Ms Harrington's statement have now been circulated. I just want to make sure that everyone has them and to note for the record that they have been circulated.

**Ms Harrington:** Briefly, I want to apologize for not having it to you earlier. Hopefully, you will get a chance to look them over in detail, before tomorrow anyway. It will be of some help. Thank you.

Section 8:

**The Chair:** We now move on to section 8. There are two amendments to clause 8(10)(d) and there's an amendment to subsection 8(11) and subsection 8(13). The two to clause 8(10)(d) are the same, so we will deal with the Liberal amendment, and that will in effect deal with the two. Both the Conservative motion and the Liberal motion are the same, so we'll deal with them at the same time. We'll begin with Ms Poole.

Ms Poole moves that clause 8(10)(d) of the bill be struck out.

**Ms Poole:** Right now, clause 8(10)(d) states that "the chief building official may revoke a permit issued under this act if it was issued in error," but clause 8(10)(a) states that "the chief building official may revoke a permit issued under this act if it was issued on mistaken, false or incorrect information." It was a submission, I believe, of the Urban Development Institute that clause 8(10)(a) already provided for revocation of a permit if it was issued on an incorrect basis. They felt that clause 8(10)(d) was actually redundant. Just in the interest of making this a little more compact, it was felt that we could eliminate clause 8(10)(d) and still completely cover the cases. If indeed the parliamentary assistant has instances where clause (a) would not cover situations in clause (d), I'd be pleased if she could bring those to our attention.

**The Chair:** Okay, and just before we do that, because the two amendments are the same, any comments at this point from Ms Marland or Mr Tilson?

**Mr Tilson:** The Progressive Conservative proposal is the same as the Liberal proposal, and I think we are agreeing with the comments made by the Urban Development

Institute. I don't know whether my question is to Mr Wildish or to Ms Harrington, but clause 8(10)(d) says that the chief building official may revoke a permit "if it was issued in error." I must confess that gives me grave concerns.

People do make mistakes. You rely on building permits. For example, there may be a permit where something has been overlooked by the building inspector. You may have an innocent owner who's building something, someone who necessarily is inexperienced. You rely on the building department, the building inspectors, to make regular inspections. I don't profess to be that knowledgeable on the subject, but certainly inspections are made at different stages. You could conceivably have the third or fourth inspection, and then you could have an inspection when the foundation is laid and then when the walls are put in and the roof put on. I don't know how many there are, but I know there are quite a few, and then you have the final inspection. Conceivably, you could have an inspection that something is wrong with the foundation, and this is an error that was made by the building inspector in all innocence.

This section says that if you find that an error was made with respect to the foundation but the walls are up or indeed the house is even finished, technically the building inspector could say: "Well, sorry, I made a mistake, just overlooked something. Maybe I didn't read it correctly or whatever. You're going to have to tear the building down."

There may be pressures put on them by neighbours. You may have a building going up that's very contentious among neighbours in a particular development, for example. I'm just trying to think of a hypothetical situation. I can tell you I have known of some in my community, where neighbours are very upset with a new building or a substantial addition that's being put on a residential house.

This means, "Sorry, you don't have a building permit; you've got to tear that down." What in the world is the owner going to do? What in the world is the builder going to do? Someone goofed. You relied on a government official for issuing a permit in the first place that was issued in error. Normally, today if that hypothetical situation were to happen, the municipality could be liable if an error was made. This means that the whole issue of damages is going to be affected if litigation was instituted as a result of an error that was made by the building inspector.

Mr Wildish, I assume there's been some rationale that has gone through in this section. I'd like to hear a little bit more from you, or perhaps it would be more appropriate from Ms Harrington, but if either one of you could comment on the rationale.

**Ms Harrington:** I'm still very impressed, Mr Tilson. You're a good lawyer to find that fine print and those hypothetical situations. It's just what we need.

**Mr Tilson:** Flattery will get you nowhere, Ms Harrington.

**Ms Harrington:** I'm also impressed Ms Poole would like to shorten this bill by at least one line. Over the past week, we have had our lawyers look at this exact situation:

Is this line redundant or not? I think that's what we're talking about, bottom line. I would like to have Colleen Parrish comment with regard to whether it is redundant, and I also would like to have Mr Wildish address Mr Tilson's question, in that order.

**The Chair:** Ms Parrish, if again you'd be good enough just to identify yourself.

1520

**Ms Parrish:** I'm Colleen Parrish. I'm the director of legal services at Housing.

I think that from a strictly technical viewpoint there is a difference between clause (a) and clause (d). I think Mr Tilson has talked about that difference.

Clause (a) says "if it was issued on mistaken, false or incorrect information," so that's the situation where the proponent—the builder, the owner or somebody—says, "I give you X information," and I issue my building permit based on your incorrect information.

Clause (d) really deals with the situation where nobody gave me any incorrect information. I, as the building official, made a mistake. I simply made an error. I issued it to 56 Maple Street instead of 55 Maple Street. I just made a mistake, and that allows it to be withdrawn. So I think from a strictly speaking technical viewpoint, there is a difference between what happens in (a) and (d).

I think the next question is whether that is a good policy result, because I've sort of addressed the strictly technical issue about whether there's a difference. One point I might want to say is that where a building permit has been issued in error, I guess there is an issue about whether or not people should be able to benefit from that error. Bear in mind that if they actually suffer damages, they can always sue, and people do sue municipalities for making errors.

The other thing is that this is a discretionary remedy. It's not like you are entitled to a building permit if you meet certain criteria. Here it says you may revoke the permit. But, after all, you don't want to have a permit out there when everybody agrees that it was issued in error—the owner may even agree it's issued in error—and you've got no way of getting it back. You just got it out there. So there has to be a way of bringing back things that are, to be blunt, mistakes made by the officials. My understanding is that this is a deliberate attempt to deal with those kinds of situations.

It may be that George wants to address some of the policy issues.

**Mr Tilson:** Mr Chairman, could I stop right on that point? Could I ask a question?

**Mr Daigeler:** Go right ahead.

**Mr Tilson:** I understand that there are situations such as mistaken municipal address or legal description, some technical mistake—I'm sitting here trying to think of an example, whether a building is too close to the lot line or something along that line—

**Ms Parrish:** Zoning is an example.

**Mr Tilson:** Yes. And the building inspector says: "Well, sorry, I made a mistake. Unless you go to a committee of



adjustment or a land division committee and apply for a minor variance, I'm going to revoke your permit." Then you get into the interesting thing: What happens if the minor variance isn't granted? I'm trying to think of examples that will create a major problem with the owner of the building because of a mistake that was made by the building official. That's why I think the UDI raised the concern.

Your rationale is quite correct. It was a technical goof, just on the face of it—a typing error. I understand that. But what happens when you get past that point of no return where you start building something improperly that contravenes the zoning or setbacks or something like that? What do you do? The permit's revoked, and what is the owner going to do?

**Ms Parrish:** The person can always reapply for another permit, but again, this is a discretionary remedy. I think the building officials would probably not revoke a permit where there was a minor problem. This is really just designed to deal with other kinds of issues.

**Mr Tilson:** Mr Chairman, I guess the question was—and this is the issue that was raised by the Urban Development Institute. The final sentences of its submission on this are: "It is clear that, at present, an innocent party who relies on a permit issued in the case of such an error has a claim for damages against the municipality, even though the municipality can stop the construction. This provision might call that damage claim into question and should be removed from the bill."

It's those two sentences that I would like you to address your comments to, as to whether this is going to create major difficulties with respect to the owner of a property.

**Ms Parrish:** Clearly there's always a damage claim that's possible, and there are cases in Ontario where people have been successful in suing municipalities because they have erroneously allowed them to build when they should not have done so. So that has occurred and the most famous case is a case called the Grand Restaurant case, where somebody got a permit to build a restaurant and it turned out that they shouldn't have been given a permit to build a restaurant. These cases do occur.

I don't see anything in this bill that would change the liability. All it's saying is that you can revoke the permit and you may be able to revoke the permit so early on that you've minimized the damage that might be incurred.

**Mr Tilson:** Or later on; that's the problem.

**Ms Parrish:** Well, the later it goes, the more likely you are to have damages. The earlier you revoke the permit, then the more likely it is that everybody can sort out the problem. The question really is—and, believe me, I'm sure people don't commit these errors a lot—when they commit an error they really agonize over it.

On the other hand, should people be able to build, for example, completely outside the zoning bylaws of the municipality or should they be able to build an unsafe building because someone made an error? At some level you have to ask, what is the cost-benefit analysis? This is a discretionary thing. It's "may." They "may" do this.

I think you have to look at the individual circumstances where an error has been done, but it's not in the public interest to allow an unsafe building to be built, or something that is completely beyond any bylaw or expectation that anyone had in a municipality, merely because there's an error. My understanding is you have to look at the circumstances. My understanding is that is the background of this policy amendment, but George may be able to assist you more, having greater familiarity with the policy background.

**The Chair:** I have several people, and perhaps we might just get all the concerns out and then we can deal with comments from members of the ministry who are here. I have Ms Poole, Mr Marchese and Mr Lessard.

**Ms Poole:** Just following up on Ms Parrish's comments, perhaps I could ask Mr Wildish, in the event that a building official issued a permit in error and the building was unsafe in some capacity, are there other sections of the building code that would prevent the continuation of that construction?

**The Chair:** Do you want to get an answer to that one right now?

**Ms Poole:** Yes, please.

**Mr Wildish:** The way things have worked in the past is that when a building official noticed, as a building was going up, that something did not comply with the code, he or she was obliged to immediately issue an order that work should be changed or work should stop to take care of that safety matter, because the building code and act, of course, are safety and health type documents. I think that answers your question. Yes, if an error is discovered as the building is going up, then they must take action.

Further, if the building actually conformed to the plans and in fact it was the plans that were in error and the plans were approved, if you will, by the municipality, the chief building official is still obliged to point out: "Yes, there's an error here. It's our fault, but you must stop nevertheless." As already explained by Colleen Parrish, municipalities are sued, municipalities do pay and municipalities do send crews out to correct situations, sometimes at their own expense. The long and the short of it is that it's a health and safety code and act. Everyone is interested in health and safety and that comes first, and following up afterwards to see who is going to pay for what comes second.

**Ms Poole:** Thank you. That actually has been quite helpful. I guess we have a scenario here where many of the cases, but not all, of clause (a) would be covered in clause (d). For instance, a number of building permits that are revoked might well be done so because of the fact it was mistaken faults or incorrect information which led the permit to be issued in error. But to be issued in error is so open-ended that it does give one pause. If there are other remedies for something being issued in error, such as the incorrect plans were approved and there was a safety element missing, it appears that there is a way to remedy that in that the chief building official can stop construction right in its tracks if that occurs.



But one of the submissions made by UDI was that a building permit is a vital document and it's relied upon by builders, by owners, by mortgagees, and if the information filed is correct, then people have a right to rely on the result, which is the fact that the building permit is issued. So where do they stand if the chief building official in fact decides he made an error that somehow goes beyond mistaken information?

1530

I guess it does lead to a question. If people cannot rely on a building permit that is issued, if they have in good faith filed their information correctly and all the information given to the building official is correct, then what kind of stability is there with the system?

I'm sure most, if not all, chief building officials are fine, upstanding people who never have petulant moods or get angry against a particular individual or builder, or that type. I'm sure it never happens, but what if in that unlikely event it did happen, and then they just say, "Well, it's issued in error; I'm revoking it," without any backup, without any evidence showing that it was in error, unless you tell me that in the regulations there would be something that would describe what "issued in error" means? As it stands, "issued in error" could mean any number of things. Can people really rely on a building permit if it can be revoked for something that nebulous? I guess that's the question I would ask to any of Mr Wildish, Ms Parrish or Mrs Harrington.

**Mr Wildish:** It's true that a building official could find an error and revoke a permit. The options for the owner then would be to go to the building commission with a grievance, saying: "I have a disagreement with the building official. Here are my reasons why he or she should not have revoked my permit," and get it settled there.

The other one, of course, is they can sue the municipality for damages because of this error, but that can happen, of course, not just here but in other parts of the building. As it's going along, the building official might make a slip, an error in his judgement on the building, and again it could go to the Building Code Commission or it could go to the civil courts. It can and does happen.

**Ms Poole:** So you're saying that if, God forbid, there was a petulant CBO out there, there is a remedy to it, either through the courts or through the commission.

**Mr Wildish:** Yes.

**Ms Poole:** So that will keep them from being petulant.

**Ms Harrington:** This government would like to correct everything in this province and make perfect people, but we can't.

**The Chair:** Mr Marchese.

**Mr Marchese:** I think some of my concerns were answered somewhat. I did have concerns about it, however.

**The Chair:** But you're relieved now?

**Mr Marchese:** To some extent relieved.

**The Chair:** To some extent. Mr Lessard.

**Mr Wayne Lessard (Windsor-Walkerville):** I had one question with respect to Ms Parrish. I would like to know whether it's your legal opinion that there's anything

in that provision that would call a damage claim into question in the event a building permit were revoked because it had been issued in error, because that, I think, is what we're concerned with. That's the statement that was made by the Urban Development Institute, that this provision might call a damage claim into question. I think that's a concern of everyone here.

**Ms Parrish:** Without having seen what the basis of their opinion is, it's very difficult for me to say. I can't see anything that has significantly changed the law here. There's always been the ability in the past to deal with certain kinds of errors and revocation, and people sue.

The one thing this might do, which I think is probably advantageous, is that it probably limits the period of time in which damages are accruing, because the municipality finds the error quickly and revokes the permit quickly, so you have a shorter period of time and you have fewer people who are able to rely upon goofs by municipalities. Maybe there are some people who've been advantaged by mistakes made and they don't want that to stop, but unless I would see an opinion to the contrary, I don't see that the law is changed. There is an ability to act more quickly than in the past and that seems to me advantageous, since you don't want things to happen simply by fortuitous errors.

On the other hand, this is a discretionary remedy and the building official might very well want to look at all of the factors before he would act. If you're dealing, for example, with a minor variance or some other minor issue, he might not want to act.

Without seeing the actual opinion UDI is relying upon, I'm not sure what is the basis of its argument except sort of an undefined concern that this might somehow change the law, but I see nothing in this act that changes that.

**Mr Lessard:** Thanks.

**Mr Marland:** I share the concerns that are being expressed here. I think that, in fairness, it's not really very good for the government to pass a bill with a section as important as this and then have "if it was issued in error." I guess we don't have to say by whom because only one person issues the building permit, but I just feel there's no protection for the public with a statement like that in there, and I hope that government, whoever it is, and legislation from any of our ministries, is in the best interests of the public. I think this particular clause, 8(10)(d), with that kind of wording, unless it can be expanded upon, simply is not in the interests of the public and goes counter to what our responsibility as legislators is.

I just find it totally unsatisfactory to leave it in that wording. If you're looking to protect the chief building officials, then come up with the wording that is necessary to do that, but I think it's far too wide open the way it is.

**Mr Tilson:** I guess I'd just like to echo the concerns of Mr Lessard that what the legal ramifications of this are—really, you have to rely on something. Maybe Mrs Harrington is correct that if an error has been made, the solution is just to revoke the permit. Maybe there's another alternative, because who are we trying to protect? We're

trying to protect the consumer. We're not trying to protect the building inspector. If the building inspector isn't doing his or her job, he or she will be canned. It's as simple as that. That's who we're trying to protect, the consumer, and this does not protect the consumer. If anything, it takes away rights from the consumer.

Mr Lessard is correct. We don't know, because there have been no decisions on this, but it certainly will make the whole issue of liability very dubious. There is no answer at this stage because we don't know, but I think that as we're voting on this subsection, we must keep in mind who we're trying to protect, the building inspector or the consumer.

**Ms Harrington:** To conclude, we are in fact trying to protect the consumer and Ms Parrish has outlined why this particular drafting is necessary, that it is not redundant and that this is a part of the bill that should be there.

1540

**The Chair:** I would ask then that we put the motion and remind everyone, as we've had some discussion, that we will be dealing with the Liberal motion. The Conservative and Liberal motions are the same so we will just deal with the motion once. Shall the Liberal amendment to clause 8(10)(d) carry?

**Mrs Marland:** I think we should have a recorded vote on this because I think it's a very significant—

**The Chair:** We have a request for a recorded vote. I'll put the question again. Shall the amendment to clause 8(10)(d) carry?

The committee divided on Ms Poole's motion, which was negatived on the following vote:

**Ayes—5**

Daigeler, Marland, O'Neill (Ottawa-Rideau), Poole, Tilson.

**Nays—6**

Harrington, Lessard, Marchese, Mathysen, White, Wilson (Kingston and The Islands).

**The Chair:** The amendment is defeated. We will then move on to the Progressive Conservative motion, which is an amendment to subsection 8(11).

Mrs Marland moves that subsection 8(11) of the bill be struck out and the following substituted:

"(11) No person shall construct or demolish a building or cause a building to be constructed or demolished except in accordance with the plans, specifications, documents and any other information on the basis of which a permit was issued or any changes to them authorized by the chief building official or in accordance with this act and the building code."

Do you have some comments you wish to make, Mrs Marland?

**Mrs Marland:** Yes. This amendment is at the request of the Canadian Bar Association. It suggested that subsections 8(11) and 8(13) be incorporated into a single section, and that is what I have done with this motion.

**The Chair:** Any further comments on Mrs Marland's amendment?

**Ms Poole:** Just that this is a very eminently reasonable amendment. It makes the language clear and we'd be pleased to support it.

**The Chair:** Thank you. Any further comments?

**Ms Harrington:** Could I ask Ms Marland which two subsections you are putting together?

**Mrs Marland:** Subsections 8(11) and 8(13).

**Ms Harrington:** I think I'd like to refer this again to Ms Colleen Parrish with regard to merging these two offences or situations into one.

**The Chair:** I note for the record that there is a further amendment by the Progressive Conservatives that would remove subsection 8(13), hence bringing the two together.

**Ms Harrington:** Would you be able to comment as to whether this would be appropriate?

**The Chair:** Ms Parrish, I think we now know who you are and you needn't repeat. Please go ahead.

**Ms Parrish:** It's me again. Right now, you have essentially three charging sections in a row. The first one says you will not construct or tear down a building except under the code, the second one says that you won't make a material change without getting the sanction of the chief building official, and the third one, subsection 8(13), says that you won't deviate from your plans and so on. Those could be plans that you filed in subsection (12) or in subsection (11).

Strictly speaking, you've created three different kinds of charges. Just from a simplicity viewpoint, you have to imagine that you're a building inspector in a municipality and you're charging people with offences under this act. It's easier for them to say, "You demolished contrary to subsection (11)," or "You changed your plan contrary to subsection (12)," or "You deviated from your plans or specification contrary to subsection (13)." So it's just that when you're issuing the charges, it's easier to go through it as a little laundry list. You did one, two or three.

I have to say, from reading the drafting, there's nothing wrong with merging it; it's just that you increase the likelihood that people will make errors when they're charging people with offences. As you know, if you make little mistakes of this nature when you're charging people with offences, you're likely to end up with your offences being thrown out. So for the ease for those people who charge people with offences, you try to make it very simple. You say, "This is the first thing you've done that we don't want you to do."

There are subtle differences. For example, subsection (13) really deals with the fact that you deviated from your plan and your plan may have been this thing that you were supposed to file but didn't file under subsection (12). So you're trying to create a sort of order, "Don't do those things under (11), then do this under (12), then under (13)." I don't think, strictly speaking, that putting (11) and (13) is wrong; I'm just telling you that from an on-the-ground viewpoint, you're going to increase the likelihood that you'll get charges which are wrong, and therefore



you're going to increase the likelihood that charges will get thrown out, because maybe there's confusion between whether they did this thing under (11) or (13) or they did this under (12).

For an orderly administration of offence provisions, it's easier to have it set out, although I admit it's repetitive from a straight drafting viewpoint. It's repetitive because it's easier to make sure you've got the correct charge.

**Mrs Marland:** Thank you for that answer, Ms Parrish. It's interesting that the suggestion for this amendment came from the very people who are dealing with the process of charges: the Canadian Bar Association. Obviously, if it gets into court, the flexibility in the wording is something they're working with. I'm simply moving it because the suggestion came from them, and obviously they know much more about the process of provincial statutes in the courts than I do. I just think it's interesting that the answer you've given is counter to what they have suggested. Anyway, who am I to comment on that?

**Ms Parrish:** If I could just comment, we all know that if you have five lawyers together, you will get eight opinions.

**Mrs Marland:** Yes, that's right.

**Ms Parrish:** As I said before, there's nothing wrong with merging them together. My answer is more pragmatic. It's based on my experience as a provincial civil servant in dealing with people who are not lawyers, who lay information. It's simply pragmatic. It's not wrong or right from a legal drafting viewpoint.

It's really just that when you train paralegals or inspectors, you train them that this wrong thing is this, this wrong thing is this and this wrong thing is that. It's just a style thing. It's not a right and wrong thing.

**Mrs Marland:** You've got me convinced.

**The Chair:** Now we really know how the practice of law is done.

1550

**Mrs Marland:** Mr Chairman, I know in this room, with the air conditioning on, we all have difficulty hearing, but I wonder if we could try the air conditioning for a while.

**The Chair:** Ms Marland, I was discussing that with the clerk earlier, in fact our first week. The problem is Hansard. What happens is not so much that we have difficulty; the sound isn't picked up.

**Mrs Marland:** What are our chances of another room tomorrow?

**The Chair:** I can certainly talk with the clerk, although they may not be better than one in three. But we'll see what we can do. We could perhaps open a window. I know sometimes people have concerns then about the traffic, but let's try that. Mr Daigeler is now moving to the window. He is going to open it. There we are. Okay?

Shall subsection 8(11), the amendment, carry? Those opposed?

Motion negatived.

**The Chair:** I would therefore move that the following amendment would be out of order, given the defeat of subsection 8(11). That concludes amendments to section 8.

Shall section 8 carry? Opposed?

Section 8 agreed to.

Section 9:

**The Chair:** I believe there is a government motion.

**Ms Harrington:** Wait till I find it here.

**Mrs Marland:** I don't think this government is interested in saving trees, because we've got all these amendments on the longest form of paper available in the Legislative Assembly. I think we could do with at least a third less.

**Ms Harrington:** Thank you very much for your comments with regard to conservation.

**Mrs Marland:** We could use the shorter pages next time.

**Ms Harrington:** I guess it's something to do with legal minds like long paper. I'm not sure.

**The Chair:** Ms Harrington moves that section 9 of the bill be amended by striking out "techniques and systems" in the fourth line and in the sixth and seventh lines and substituting "systems and building designs" in each case.

**Ms Harrington:** The reason for the amendment is simply that the bill makes several references to the concept of "materials, systems and building designs." Unfortunately, the bill does not always use exactly identical words each time it refers to this concept. It would avoid possible confusion if the words used were identical.

**The Chair:** Discussion?

**Mrs Marland:** I'm very happy to support anything that clarifies this bill and makes eminent good sense, and it sounds to me as though this does. Is the reason that the problem exists because we have a whole group of little people in the ministry that all get one section of the bill to do and that's why you get a variance of words that are selected for use and application in different sections?

**Ms Harrington:** I think this has been in the bill historically, and we're trying to clarify it now.

**Mrs Marland:** Oh, you're cleaning up those old bills.

**Ms Harrington:** Yes.

**Mrs Marland:** Oh, I understand.

**The Chair:** Further discussion? Shall the government amendment to section 9 carry?

Motion agreed to.

Section 9, as amended, agreed to.

Sections 10 and 11 agreed to.

Section 12:

**The Chair:** On this one, I have two amendments to subsection 12(1) that are similar in intent if not, as I read quickly, word for word. Are they exactly the same? They seem to be exactly the same. This brings us back to that old phrase about great minds, and I'll just stop there.

**Ms Poole:** There actually is a difference.

**The Chair:** Ah, there is a difference.



**Ms Poole:** The Conservative motion 12(1) just talks about land, and ours talks about "may enter upon land and into buildings." It was a fairly significant change.

**The Chair:** Perhaps if we begin with Ms Poole and the Liberal amendment, and if there is a meeting of minds as the discussion goes on, it will be so noted. Otherwise, we will deal with two separate amendments. Ms Poole, would you move your amendment, please?

**Ms Poole:** Yes, Mr Chair. There are only so many times in one day that Liberals and Conservatives can agree without it starting to grate on the nerves, so it's good that we're finding differences.

**The Chair:** Ms Poole moves that subsection 12(1) of the bill be struck out and the following substituted:

"Inspection

"(1) An inspector may enter upon land and into buildings at any reasonable time without a warrant for the purpose of,

"(a) inspecting the building or site in respect of which a permit is issued or an application for a permit is made; or

"(b) determining if a permit is required to be issued."

**Ms Poole:** If I might give a brief explanation, this amendment is very similar, in fact I think identical, to what was in Bill 103, the previous Liberal bill that didn't quite make it through before the September 1990 election. It has been quite a very popular one with the municipalities. They have told us, both through some of the groups such as TACBOC and also through municipal representatives on council, that they would like to have the ability for the inspector to be able to determine whether a permit is required to be issued and they see it as a real shortcoming that this particular section was removed from Bill 112.

Perhaps for members' clarification, I would let you know that clause 12(1)(a) is in Bill 112 and the addition we're talking about is clause (b). That line, "determining if a permit is required to be issued," is no longer in Bill 112, although it was in Bill 103. With respect to the fact that Mrs Harrington said earlier that she really doesn't want to step on municipalities' toes and wants to give them discretion, I think this is an ideal opportunity for allowing the municipality to have that discretion to enter to determine whether indeed a permit is ever required. Why make people go through hoops and loops and a whole set of bureaucracy if in the opinion of the building inspector the permit is not even required to be issued?

**Mrs Marland:** First of all, let me say on behalf of the PC caucus that we agree entirely that the wording of the Liberal amendment is far more correct in that first line than our own because obviously it makes sense that you have to enter upon land and into buildings if those buildings exist, so we certainly concede that.

**Ms Poole:** So we're agreeing again?

**Mrs Marland:** We're only agreeing on that line.

**The Chair:** There's a generosity of spirit here that overwhelms.

**Mrs Marland:** Winning at the Olympics gives you such a different perspective on life.

**Mr Daigeler:** That was your son, Margaret.

**Mrs Marland:** That's true.

We know when a permit is required, so I'm not quite clear what it is that is really at question here. I know it's TACBOC's requirement to add "determining if a permit is required to be issued" from the previous legislation, but frankly I'm interested that this was in the previous legislation. We must be looking at a situation where some construction is going on onsite or to an existing building that is so minor in nature that it may not require a permit. Is that what we're looking at? The possibility is that they have to obviously be on the land, in the building, to make that decision about whether a permit is required, but as I said earlier, it's such a small area and minor in nature that a permit isn't required.

1600

**Ms Poole:** Just before Mrs Harrington responds, I want to make one clarification for Mrs Marland, that clause 12(1)(b) was in the draft legislation, like Bill 103 that the Liberals had introduced, but it isn't in the current legislation.

**Mrs Marland:** I understand that.

**Ms Poole:** We're basically dealing with three pieces, the existing legislation, the proposed legislation for Bill 103 that did not pass before the change in government and then Bill 112. Clause 12(1)(b), just for the information of all members, was in Bill 103, but it wasn't in the previous legislation and it isn't in Bill 112. That makes things as clear as mud.

**Mrs Marland:** There must be a very good reason for that and I'm looking forward to hearing the reason, because I don't have the Liberal Bill 103 memorized.

**The Chair:** Neither does the Chair. Ms Harrington, and then I have Mr Lessard.

**Ms Harrington:** I'd like to respond briefly, and I probably—

**Mr Lessard:** Could I ask a couple of questions that Mrs Harrington might include in her response?

**The Chair:** All right.

**Mr Lessard:** One is that I'd like to know whether any of the submissions that were made requested that this provision be added. You said it was in the Liberal bill, but I don't recall anybody referring to this. The other thing I wonder is whether this amendment may be contrary to any provisions of the Charter of Rights and whether this might be covered by the changes we've made to ease the ability of building inspectors to obtain warrants from justices of the peace in cases where they think there might be a contravention of the building code.

**Ms Harrington:** I'd like to make a few points and then I would also like to refer to our legal counsel again, just to make sure that I'm exactly right.

First of all, the change from Bill 103 to Bill 112 in deleting (b) has several legal surrounding points. One of them is that with the proposed legislation with regard to apartments in houses, we want to have the same ability to enter, and what we are doing is having the exact same ability in both of these pieces of legislation.

I'd also like to point out—and I'd also like to hear from legal counsel on this—that there is some difficulty with trying to prosecute under this clause (b) and that there is a problem with regard to having this contrary to the charter. These were some of the issues around the decision to take out (b). Could I ask Ms Parrish to clarify.

**The Chair:** While Ms Parrish is coming up to the table, Mrs Marland.

**Mrs Marland:** I'm just thinking as I listen to your reply that this probably—let me give you an example, and tell me if this would be a remedy to that problem. Where you have the conversion of single-family homes into boarding houses, and you have, as I mentioned earlier last week, as in my own riding, a single-family home where we think the basement has been divided into four rooms or the living and dining rooms have been divided into three rooms—we actually have examples of that, where 21 people live in a single-family home in an area in my riding. Part of the problem for the municipality has been that it hasn't—I know the other section that addresses the right of entry. I've forgotten which section it is right now, but it's the one where you made the changes that we requested. Would this amendment to section 12 not give us the authority we need for inspection to see if a permit is required? Would that not help the concern those municipalities—

**Ms Harrington:** That's the intent, I believe, of clause (b) of this amendment.

**Mrs Marland:** Of our amendment, but what I'm saying is, in the other part of the bill you did address some of the concerns of our municipality, as an example, which will become more and more a concern as more and more apartments, basement apartments and so forth, accessory apartments, are built around the province. It may well be that if we're going to have accessory apartments and basement apartments built, the government may want this option of inspection to determine whether a permit is required, because you wouldn't know until you got inside the building the extent of the work that was being done.

**Ms Harrington:** I'd like our legal counsel to address whether or not that can in fact be done.

**Ms Parrish:** The Charter of Rights and Freedoms requires a search warrant in two kinds of cases. The first case is where you are dealing with a dwelling unit and the charter provides a higher protection to dwelling units. In general, if you're going to enter a dwelling unit for any purpose, to inspect or to lay a charge, you need a search warrant, unless the residents consent, and in the vast majority of cases where you're dealing with inadequate conditions and the individuals involved are not afraid of being thrown out for zoning reasons, they'll simply consent.

The other situation the charter will protect is a situation where there is an offence. Finding that you should have had a building permit and did not is an offence, and that's why you cannot have warrantless entry. You have to have a search warrant because not having a permit is an offence and the reason you're going there is because there's an offence.

There are other ways of dealing with the issue. The building official can issue an order that a permit should be issued and then the person in the building can simply respond. People can consent for you to go on the property, and in many cases they do consent, especially if the inspector comes and explains what he or she is looking for.

But the Charter of Rights and Freedom says that you must have a search warrant. The effect of the case law under the charter is that if you are going to do this, where you're dealing with a dwelling unit or you're dealing with an offence, you need a search warrant and you cannot give people warrantless entry.

They can have warrantless entry under (a) because they're not inspecting for an offence. I should point out that they can't use (a) if they have reasonable and probable grounds to believe that there's an offence; they'd better get a search warrant. But if all they're doing is inspecting for something else and there's no offence, they can use (a). They can use 12(1)(a), which is inspecting to see, where somebody has already had a permit issued and there's an application for a permit made and you're trying to find out what conditions you might be applying to that permit. But because (b) is an offence, you need a search warrant, unless there's consent to entry.

If a municipality attempted to use this warrant, it would probably just have its offences all struck down anyway. The question is whether we should be authorizing what the charter will not support. The view of the ministry is that we should not be authorizing in our legislation intrusions which the Charter of Rights and Freedoms would not justify.

**Mrs Marland:** This is very interesting, because I'm listening to Ms Parrish's response as though 12(1)(a) exists, and 12(1)(a) doesn't exist unless we pass this amendment. Aren't we getting into a chicken and egg situation here, because we're talking about when warrantless entry would be permitted, but to get a search warrant, you have to go before a justice of the peace, I think. Is that correct?

**Ms Parrish:** Yes, it's correct.

1610

**Mrs Marland:** You have to have enough evidence to convince the justice of the peace that you are entitled to a warrant. How do you get the evidence if you can't go in? The kinds of situations that we have had in this particular subdivision in my riding are horrendous. They are totally unjust to the people who are living in those buildings. The people are at risk.

The problem is that we have not had the power of the warrantless inspection. You go to the JP and say, "We think there's a fire code violation here; we know there's probably a building code violation," and it's not always easy to get that warrant. In the meantime, the people are actually at peril in those buildings, but if you don't have the evidence to prove it—I mean, there are times when I think the Charter of Rights and Freedoms has really made a big botch of protecting all of us in the long run.

It's not as though the municipalities are looking for work, Madam Parliamentary Assistant. I can assure you that in the city of Mississauga, the building inspectors are



not looking to go poking around in somebody's private dwelling unit for something to do. We don't have enough staff to enforce the bylaws and building code that exist today without looking for extra work, but where we've had these situations, I think clause 12(1)(b) is very important. I don't see that we have that option under subsection 12(1).

**The Chair:** Ms Parrish.

**Mrs Marland:** Ms Parrish is mouthing the answer to somebody.

**Ms Parrish:** I apologize. I wasn't sure if you were going to call on me.

I'd start out by saying that when I referred to the part in clause 12(1)(a), that is the same language that is currently in subsection 12(1). That's why I said the (a) part was okay, because that's what's already there. That's just a brief explanation.

I would point out that there are provisions in both the fire code and the building code to deal with emergency situations. Where you think people are at peril of their lives, there are special provisions, and that's very consistent with the charter, because the case law in the charter says you intrude to the extent that it's necessary. Obviously, if you're dealing with people who might die, there's a higher intrusion that's justified under the law, and there are provisions both here and in the fire code that deal with situations of imminent danger.

In this section, we're not dealing with imminent danger; we're simply dealing with a situation, for example, where somebody is building a dormer window on his house and somebody says, "Oh gosh, maybe that person should have had a building permit." That's certainly an issue. The question is, should a municipal official have the right to enter your house to find that information out without a warrant?

What this act is saying is that if you want to enter people's dwelling units and they will not consent, you must get a warrant, and if you want to charge people with offences and enter their property, you must get a warrant. That's because the case law in this area attempts to protect privacy and people's rights when faced with offences. It's a balance. I agree that people might disagree as to where the balance is. This is where the balance is in this bill.

**Ms Poole:** I have several points. First, Mr Lessard said he didn't recall any presenters bringing this up. It was actually a fairly major part of the Toronto Area Chief Building Officials Committee's presentation. I might also add that I have met with a number of municipal officials from various municipalities concerning accessory apartments and, without exception, all of them have brought up this particular issue of the municipality feeling its hands are tied because it can't go in to see if there is a problem.

As Mrs Marland said, it's a catch-22 situation, where they don't know whether a permit is required to be issued because they can't go in to see it and they can't get a search warrant to go in to see it unless they have evidence that indeed it's necessary, so it puts the municipalities into a particular dilemma. I think probably you'd find quite a few of them would like this kind of protection.

Might I ask if we do indeed have a legal opinion stating that subsection 1(b) would be in contravention of the charter? I understand your comment, Ms Parrish, about the dwelling unit and about the offence, but I don't know whether subsection (b) relates to an offence unless they go in and find out that indeed a building permit is required to be issued and at that stage the party refuses to make application.

Is there an actual legal opinion within the ministry that cites that this type of provision should've been removed from Bill 103 and the Liberal amendment to Bill 112 should not be accepted because it is contravening the charter?

**Ms Parrish:** I think you can appreciate, Ms Poole, that I'm not in a position to breach a solicitor-client relationship between myself and the Ministry of Housing as to what legal advice has been given to the Ministry of Housing. I would just comment, and I realize I'm going to make a comment which is probably dangerous to my life, but these issues—

**The Chair:** Not before this committee.

**Ms Poole:** I don't feel that strongly about it.

**Ms Parrish:** These issues were canvassed very heavily during the Rent Control Act, the same issues that arose in the Rent Control Act about the powers to enter for the purposes of enforcing the Rent Control Act. It's the same issue, the issue around dwelling units and offences being committed, and there were extensive changes made as a result. These are very similar.

I can only say that much in terms of—as you know, I'm not the lawyer assigned to this act so I'd have to go back and look at the files. In any event, I can't breach that solicitor-client privilege.

I would say that, in general, warrantless entry is not permitted under any statute and I don't see it. It's not under the Rent Control Act. It's not under any of the apartments and housing legislation, because recent cases have shown that those provisions will not stand up, in particular as they are related to dwelling units, and there are quite a few cases that deal with dwelling units.

**The Chair:** I have Ms Harrington, Mr Tilson and Ms Marland.

**Ms Harrington:** Very briefly, Mr Wildish would like to point out section 16 and how that applies to what we are discussing right now.

**Mr Wildish:** I'd just like to clarify something, if I may. Under the old or current act, you always had to have a warrant to enter a dwelling, as Ms Parrish has outlined. Under the proposed Bill 112, you still have to have a warrant to get into a dwelling so that the additional entry here is very limited. It applies mostly to industrial or commercial buildings, or a building like this.

What it does is to prevent an inspector from wandering into this room, for example, saying he'd like to look around here and see if a permit's required, or going into some building where he may even see some rubble coming out or some lumber going in. Perhaps it's a development lab or some secret kind of place where they wouldn't want



someone wandering around, so they've tried to put some protection here to protect the occupant's rights.

**Mr Tilson:** My question is to Mr Wildish, Ms Parrish or Ms Harrington. Without this amendment that's before us, how will subsection 10(1) be enforced? How will you know?

Subsection 10(1), if none of you has your bill present, says, "Even though no construction is proposed, no person shall change the use of a building or part of a building which would result in an increase in hazard as determined under the building code unless a permit has been issued by the chief building official."

This is of course what TACBOC says. They are concerned that—

**Ms Harrington:** I will ask Mr Wildish to respond.

1620

**Mr Wildish:** Under subsection 10(1), which is the change-of-use permit section, an owner is obliged to apply for a permit. When he or she applies for a permit, then he or she has opened the door to inspection so that a building official can get all the information that's required to issue the permit.

It's just the same as with new construction; when you apply for a permit for new construction, you invite the permit process and inspection process to start. So for someone who wants a permit, the change of use would be inviting that inspection to take place. If they refused that, of course, the building official would refuse to issue a permit.

**Mr Tilson:** Except that the proposed amendment to clause 12(1)(b) talks about determining if a permit is required to be issued; that's the distinction between subsection 12(1) and the amendment. Subsection 12(1) in the bill doesn't have that, so therefore if I'm a building inspector, how do I know whether or not a permit is to be issued to comply with subsection 10(1)? I don't have any authority. That's the reason for the amendment. Perhaps it's a political question. Maybe I should direct it to Ms Harrington.

**Mr Wildish:** To get a warrant, you'd need some grounds for suspecting that some offence has been committed there. You would have to have some kind of evidence that a different kind of use is going on. Maybe the whole building is shaking because of the machinery operating or there's something in there that's giving you an indication that, yes, a change of use has taken place and you want a warrant to get in.

**Mr Tilson:** Mr Wildish, we're talking about inspection; that's what section 12 does. I appreciate what you're saying about warrants, but section 12 deals with inspections. Section 12 says that an inspector may enter without a warrant. The Liberal amendment to section 12 says that you can enter without a warrant for the purpose of determining if a permit is required to be issued. There's no section in the bill that says that and that's why the amendment is there. If subsection 10(1) is going to have any teeth at all, then don't you have to have some sort of provision that allows an inspector to go in to determine if a permit is required to be issued?

**Mr Wildish:** That's what I was saying. You'd have to have some grounds to obtain a warrant to get in, as with new construction. If you suspect new construction is taking place, your grounds might very well be that you see construction material going in, rubble coming out, your jackhammer is running and those are the reasons for your belief that construction is taking place.

**Mr Tilson:** Under section 10, there's no construction taking place.

**Mr Wildish:** That's right. Under section 10, you would not have the same kinds of indications of a breach; you'd be looking for something else. It might be, though, for example, that you see printing equipment or printing papers going in; you suspect the fellow is running a printing operation in a building that used to be an ordinary office. You'd have to have some grounds to obtain your warrant to get in.

**Mr Tilson:** I can't add to my comments, Mr Chairman.

**Mrs Marland:** It is becoming far more evident what an important amendment this is now that I see it when it's being applied and cross-referenced to other sections in this bill before us today.

Clause 16(1)(b) of Bill 112 says, "the delay necessary to obtain a warrant or the consent of the occupier would result in an immediate danger to the health or safety of any person." That would be a reason that the inspector may enter without a warrant.

It also says, under clause 16(1)(d), "the requirements of subsection (2) are met and the entry is necessary either to remove a building or restore a site under subsection 8(6) or to remove an unsafe condition under clause 15(5)(b)."

I've just read clause 15(5)(b) and I know now why lawyers make so much money interpreting provincial statutes, because when you go back and forth between sections, it really does get to be a little confusing. But to refer to 15(5)(b) as "to remove an unsafe condition under clause 15(5)(b)," 15(5)(b) says, "may cause the building to be renovated, repaired or demolished to remove the unsafe condition." But that's all after the fact.

What I'm saying to you is that's after you know that certain conditions exist. What we are saying is that based on the experience of municipalities around this province, and that's before the legislation that's going to be tabled this fall to permit accessory apartments within and without a single-family unit, we have an existing problem today.

Now that I recall—and I say this to the Liberal members of this committee—we were happy that Bill 103 was drafted in such a way as to address the concerns of a municipality like ours, which, believe it or not, had it confirmed over and over again to it that it's a chicken-and-egg or catch-22, or whatever colloquialism we want to use here, situation.

It's even more ironical that the one particular subdivision that has had the most court cases rendered against buildings in that subdivision is right in my riding, so I know at first hand what it is that was trying to be achieved here on behalf of municipalities. Nobody is stronger in defending property rights and privacy than I am. That's

one of the reasons we had a lot of concerns with Bill 121. Isn't it ironical that when we come to rent control legislation it's okay to go and seize all the information from the property owner or any other evidence that's needed without a warrant? We've got a double standard here.

We've got examples where, whatever the legal term is, to go in and seize evidence is okay but in the circumstance of "immediate danger to the health or safety of any person." How do you know that the person may be in immediate danger to his or her health or safety unless you can get inside the building?

I want to tell you that in these examples of which I have firsthand experience, Mississauga went to court so many times because the individual, and it was one particular individual for a number of houses, was getting away with murder, converting these homes and claiming that the municipality had no right to send its inspectors in.

When we say, "What evidence do you have on the outside that you should have a warrant issued?" we don't have any noise, I say, Mr Wildish, with respect, we don't have the noise of equipment shaking a building. We just know that maybe a tenant who has left has described to the municipality what horrific situation exists in that building.

Maybe you've got a tenant who's willing to go before the justice of the peace and say, "Look, there are 21 people living in this single-family house." I'm talking about a single-family house that's about 1,800 square feet. It exists today in my riding. We can quote the Charter of Rights and Freedoms. As far as I'm concerned, the right to protection of human beings is not available to those poor people who are paying \$50 to \$100 a week for a third of a living room/dining room that's divided into a cubicle for them. We're saying without this amendment to 12(1), with the wording in clause 12(1)(b), they can't even determine whether a permit should be issued because they can't get in without a warrant.

I hear very clearly Ms Parrish's argument about warrantless entry, but I say to you again we do not have 200 building inspectors looking to make warrantless entries. The city of Mississauga, which is a city of 500,000 people, has the firsthand example and experience that I'm giving you, which I now recall very clearly was being addressed by Bill 103. When I realize that's the amendment that's before us now, I see very clearly why we were asking for it.

1630

If you choose to ignore the reality of warrantless entries, if you're concerned about a warrantless entry, you'd be better to have a definition in the bill as to who can make a warrantless entry. The wording here says "an inspector." Maybe you want to have somebody higher up in terms of a building official representative of a municipality.

If you're worried about who it is who is going to make those warrantless entries or that they may be done indiscriminately, then lay a very fine line down about who is entitled on behalf of a municipality to make a warrantless entry, but at least give the option of the municipality to make a warrantless entry for the protection of the public.

I would love to take this entire committee out to see the kind of building I'm talking about, which is a total viola-

tion of the rights of individual human beings who have to live there. I don't think we're asking too much to say to you come and see where people live and where we cannot get warrants for inspection, even though we suspect fire code violations and building code violations. I would have thought the ministry must know of these examples where the charges have gone completely through court based on the concerns of the municipality.

Tell me this. Is it more or less the same ministry staff who drafted 103 who have drafted 112, or does the Ministry of Housing have a whole lot of new staff? I'm not talking about the minister's staff.

**Ms Harrington:** The buildings department is separate.

**Mrs Marland:** The buildings department is separate. Bill 103 was drafted probably three years ago?

**Ms Poole:** I think it was December 1989.

**Mrs Marland:** Surely we don't have the whole buildings staff in the ministry changed. Mr Wildish, can you tell us why the change in thinking? Why was it in 103 and not in 112? Who has made that decision?

**Ms Harrington:** I think we have had a very good discussion about some of the various concerns and options and certainly the problems in Mississauga, but I think what I tried to point out at the beginning and had Ms Parrish explain in a little more technical and legal detail is that it would be difficult to prosecute and it would also be contrary to the charter. I'm wondering—

**Mrs Marland:** No, you're not answering my question, with respect. My question is very clear. Somebody on the ministry staff drafted Bill 103 and included this provision that we're asking for now. Somebody has drafted Bill 112 without the provision. I want to know where we changed boats in midstream.

**Mr Tilson:** Where did that person go?

**Mrs Marland:** Why was it in 103 and not in 112? Did we get a different legal opinion along the way? While we're on that question, different legal opinions, maybe this committee needs its own lawyer to give us a legal opinion—

**Interjection:** No more lawyers.

**The Chair:** Order, please.

**Ms Harrington:** I don't want to go into more detail, but Mr Wildish has explained to me that what you're explaining as what you think was in Bill 103 is not. He has a copy of it here. But I don't want to go back into that. I think we have to deal with what's before us, please.

**Mrs Marland:** That's fair enough. If he can tell us that it wasn't in 103, then I think we need to know that.

**Ms Harrington:** You did have another question that I wanted to—

**Mrs Marland:** Why can't we answer that question?

**Ms Harrington:** If you would like to go into that kind of detail, yes.

**Mrs Marland:** I just want to know. If it wasn't in 103, what was in 103?

**Ms Harrington:** Would you care to explain?

**Mr Wildish:** Yes.



**Mrs Marland:** Thank you.

**Mr Wildish:** The particular line you're referring to, "Determining if a permit is required to be issued," that sort of line was in 103, but you have to read that in conjunction with a section that comes later. In 103, that was section 16.

**Mrs Marland:** Right.

**Mr Wildish:** It's only the one sentence. I'll just read it to you. "Despite section 12"—which is the one you're concerned with—"an inspector shall not enter or remain in any room or place actually being used as a dwelling unit except with consent of the occupier or under authority of a warrant issued under this act." So under 103 an inspector couldn't get into a dwelling unit without a warrant. This one is the same; you can't get into a dwelling unit without a warrant. That remains.

**Mrs Marland:** So we didn't have it in 103 then, Dianne.

**Mr Wildish:** As Ms Parrish was outlining, it's always been a protection we've had for home occupiers.

**The Chair:** I wonder if the Chair might just note that we are dealing with Bill 112, and perhaps we could keep our focus on that, whatever may or may not have been in Bill 103. I don't want to limit the comments here, but we have had a fairly extensive discussion. I think the points are on the table.

Are there any further comments on 12? Otherwise, I think I would like to move the amendment. Could we put the amendment then?

**Mrs Marland:** If we're going to vote on this amendment, then we have to have another recorded vote.

The committee divided on Ms Poole's motion, which was negated on the following vote:

#### Ayes-5

Daigeler, Marland, O'Neill (Ottawa-Rideau), Poole, Tilson.

#### Nays-6

Harrington, Lessard, Marchese, Mathysen, White, Wilson (Kingston and The Islands).

**The Chair:** I would then note that the Conservative motion would be out of order.

**Mrs Marland:** It was another good motion.

**The Chair:** Thank you for that explanation and clarification.

Sections 12 to 14, inclusive, agreed to.

Section 15:

**The Chair:** I have then a government motion on section 15.

Ms Harrington moves that subsection 15(2) of the bill be amended by adding "or" at the end of clause (a) and by striking out clause (c).

**Ms Harrington:** The reason for this amendment: Clause 15(2)(c) would extend the scope of the Building Code Act to include—I'm just wondering if this is the one Mr Lessard wanted to move.

**Mr Lessard:** The cat's out of the bag now.

**Ms Harrington:** Oh, dear. I'm sorry.

It would extend the scope of the Building Code Act to include damage to neighbouring property. The act has traditionally been silent on this issue and has focused on hazards to persons. This is an important issue that has broad implications for regulation of buildings in general, and rather than introduce this concept in a limited way in this section, it is proposed to withdraw it at this time in favour of subsequent broader treatment in a future act amendment.

The other proposed extensions to the definitions of "unsafe" will cover almost all situations that are likely to arise in practice regarding the effects of a deteriorating building on any neighbouring property.

1640

**The Chair:** Are there any other comments on this? Mrs Marland.

**Mrs Marland:** I wonder how long we'll have to wait for the next go through the building code. What you're saying is that you really want more time to look at how to address the concern of neighbouring buildings or land and that's why you're withdrawing clause 15(2)(c).

**Ms Harrington:** Would you like to comment a little bit further on that?

**Mr Wildish:** Yes, the original amendment was drawn up, as you know, dealing with neighbouring persons and with neighbouring property. Somebody who's going to damage a neighbouring person, someone walking by, a passerby, will of course also affect neighbouring properties. So the amendment that covers damage to a passerby, a neighbouring person, will deal with 99% of the cases we can think of.

The idea of damage to property, though, is also included, as you know, and that's the one that's being removed, because the act has been particularly silent about the effect of new construction on existing buildings.

It's a large issue that has to be dealt with in the act. It should be dealt with. It's getting more important all the time and this particular one deals with only a small part of that. Hence, the explanation given there was, as you know, that rather than deal piecemeal with this, we should deal with it in a full way.

I'll give you an idea of what's involved here so you can understand this. It might be this: You could have a brand-new building built under the building code, perfectly valid in every respect. It goes up and when it's built—it's a high-rise building, let us say—it establishes wind patterns or reflections from the sun or other kinds of effects on a neighbouring building which also meets all code requirements.

You might have the brand-new building declared unsafe because it's harming the neighbouring property. You might have the neighbouring property that exists—let's say it was a small building on which the snow was swirling off the top of the big building and landing on the little building, making it unsafe. You might have that one declared unsafe as well. There are a lot of implications here that might arise, a lot of grief that might come for extremely little gain at this time.



So the suggestion was, remove this particular one at this time. We'll pick up 99% of what we're after with the damage to persons and we can address the idea of the whole concept of one building's effect on neighbouring buildings in a much more rigorous review of the act in this respect.

**Mrs Marland:** What is it, seven years since we reviewed this act, or nine years?

**Ms Harrington:** It's been 17.

**Mr Wildish:** It was in 1975.

**Mrs Marland:** I think that clause 15(2)(c) is actually probably a very important part to recognize not only the examples that you've just given, but I think as long as it's in there, perhaps the Building Code Act is making progress.

It's not too comforting to think that we might have to wait another 17 years to look at a condition that could result in damage to neighbouring buildings or land. I mean, it's "an important issue that has broad implications for regulation of buildings in general." Yes, it does. "Rather than introduce this concept in a limited way in this section," you'd rather withdraw it. The fact that it has broad implications on regulations of buildings in general is probably a good thing. So are you a little chicken-hearted or what?

**Interjection:** I'm sorry I brought it up.

**Ms Harrington:** What we are saying is that we recognize this, which has not been recognized in the bill in the past, and we do want to deal with it. I think what you're saying is that it's going to be a long time if you leave it till another piece of legislation. I think that's your main concern.

**Mrs Marland:** Well, if it's 17 years since we've done it.

**Ms Harrington:** I recall on second reading in the House, my statement to the House was that there are going to be—in other words, it's not going to be another 17 years. This is an area where things are changing rapidly. In the decade ahead, there are going to be many changes with regard to buildings. We have to keep up with them, encourage innovation and make sure these buildings are safe and built in ways that correspond to what the public demands, which means conservation and environmental concerns as well.

If that's your concern, then I think I did address it at second reading. There are going to be more changes, but you can't get that guarantee until it happens certainly.

**Mrs Marland:** What you're saying is if you leave 15(2)(c) in, it opens up a big can of worms that you're not prepared or ready to address yet through regulations. Is that what you're saying, that you're just not ready to deal with what this could evolve into?

**Ms Harrington:** It was our legal adviser who said that it would be better to look at the broader picture than to deal with it piecemeal.

**Mrs Marland:** Which legal adviser is that?

**Ms Harrington:** Mr Jeffrey Levitt.

**Mrs Marland:** Is he on the ministry staff?

**Ms Harrington:** Yes.

**Mrs Marland:** So we could get his opinion on some other things in here if we wanted to?

**Ms Harrington:** Well, he was here.

**Mrs Marland:** Oh, I see. Okay. Thanks. I'm sorry you've got cold feet, Madam Parliamentary Assistant.

**Ms Harrington:** That's not like us, is it?

**The Chair:** This room has been quite warm.

**Mrs Marland:** I wish I could say it's not like you, but you've had cold feet all the way, since you've been back-peddalling from the Agenda for People which you campaigned on.

**Mr Tilson:** Well said. You woke those people up over there.

**The Chair:** Let the Chair intervene immediately and move to Mrs O'Neill.

**Mr Tilson:** They are listening to what you're saying.

**Interjections.**

**The Chair:** There are a number of metaphors roaming around there, but we'll turn now to Mrs O'Neill.

**Mrs Yvonne O'Neill (Ottawa-Rideau):** I feel quite strongly about this. I find it's very strange. We have something the act's been silent on. Anybody who has been around this Legislature for even a short time knows how difficult it is, first of all, to get a piece of legislation on the agenda, let alone to reopen a piece of legislation that has been passed within any given term. So I think it's pie in the sky to say we're going to go back at this. I really don't believe it.

In any case, we've got inspectors out there in all different sizes of communities in this province and they're getting all different kinds of representations coming before their different councils, which they're responsible for. Many of them have to do with land now, with all the new environmental concerns.

Second, I'm not convinced that the condition of a building that's damaging or damaged is not also having a spinoff effect about being unsafe for other people who happen to be using that building. I'm not convinced that extends into the neighbouring building. The people in the neighbouring building would be under clause (b), but I may be able to be convinced of that.

I'd like to have an answer on the proposed extensions to the definition of "unsafe," because I've obviously missed something. Could you review my mind with what that last paragraph is talking about?

1650

**Mr Wildish:** The last paragraph of the definition?

**Mrs O'Neill:** No, of the reasons that you are removing—

**The Chair:** The government motion, the reason for amendment. The third paragraph.

**Mrs O'Neill:** Yes. What does that mean?

**Mr Wildish:** The one that says "The other proposed extensions to the definition of 'unsafe' will cover..."?

**Mrs O'Neill:** Yes.

**Mr Wildish:** It's very difficult. In fact I can't think of a situation where a building is in bad shape for whatever reason—let's say it's got very poor mortar at the top of the parapet wall, a brick's liable to fall off and hit someone or fly off and hit someone in the neighbourhood, or it's got a loose sign that's waving in the breeze and might fly off and hit someone in the street—there are examples of damage to people, but I'm hard-pressed to think of an example where that condition under which it could be declared unsafe wouldn't deal with damage to property. In other words, the building is in such bad shape that a sign could fly off and hit somebody; it could also damage the property, but you'll catch it under damaging a person. Do you understand what I'm getting at?

**Mrs O'Neill:** I'm having a lot of difficulty. I guess I have not made myself clear. Are you trying to allay my fears that the safety of persons in (b) would cover what would have been in (c)? Is that what you're trying to do right now?

**Mr Wildish:** Yes.

**Mrs O'Neill:** Okay. As I said, I may be convinced on that. Would you please tell me what you're saying in the third paragraph and then I have one further question.

**The Chair:** Under the reason for omitting it?

**Mrs O'Neill:** Yes, the proposed extension to the definition of "unsafe." Is that a regulation where the definition's going to be, or an amendment in this act?

**Mr Wildish:** That sentence is referring to what I just talked about, that if a building is in bad enough shape to hurt a passerby because of a brick or a beam falling off, whatever, that includes all the other.

**Mrs O'Neill:** Are you saying that's in (b), the proposed extension of the definition of "unsafe"? Where is this proposed extension to the definition of "unsafe"?

**Mr Wildish:** Yes, it's in (b). It's the second half of (b) that says "persons outside the building or persons whose access to the building has not been reasonably prevented." It's those persons outside the building. That's the addition.

**Mrs O'Neill:** I say I have difficulty with this legal opinion, but I've had difficulty with legal opinions before. Is there any chance of getting this through in regulations which, I understand, are not yet complete, or does this have to be in the act? You're the only people who know how broad-ranging (c) was or how broad-ranging it could become in interpretation. There has to be a reason because it has a new profile, particularly, as I've said, neighbouring land, which is a new profile in the 1980s and 1990s.

So I want to go to whether it be handled in regulations first. I've heard the explanation of why you don't want to do it and I guess you're not going to give us any more information than that. I have to be satisfied with it, but it's very, very difficult to say you can't tell us what would happen. You're trying to tell me that it's already covered.

You had it in here, but legal opinion tells you that it's too broad, so you've got to take it out. It's very difficult for me to see that it can be concluded in (a) and (b), but (c) is too broad. Try to put that through your head. It's very

difficult to take that explanation at face value, but that's the legal explanation legal experts have given you.

Could you make the regulations for (a) and (b) include this? That is what I'm asking. I'm thinking about the municipal officials out there who have all kinds of advocates now for different things, particularly if there's a multiple-use building going up, a multiple housing unit going up or even, in some cases, a single-family home.

**Mr Wildish:** Yes. Certainly (c) was added in the first place because it was thought it definitely adds a little bit more. It wasn't put in for nothing. We definitely thought it adds a little bit more in terms of damage to neighbouring buildings or land as opposed to people.

As I explained, though, it didn't add very much and I'm hard-pressed to think of an example to give you where it would not be picked up under clause 15(2)(b). However, since it was put into the first draft of Bill 112, these other problems have been identified, which I mentioned, where we might find we get far more grief from this by trying to define these situations than we do gain.

It would be much better perhaps to address this and take a proper look at the whole problem of new buildings affecting existing buildings, which, as I mentioned, the act is silent on. We haven't addressed that. The act has not addressed that in the past. It should be addressed, no doubt. As Ms Harrington indicated, we'll have to do that and come forward as soon as possible with some—

**Mrs O'Neill:** So it can't be done in regulations. Is that the answer?

**Mr Wildish:** Yes. We don't have a provision for this. It's defined here in the act.

**Mrs O'Neill:** It could not be included under the regulations for (a) and (b)?

**Mr Wildish:** There's no regulation for that defined in the act itself.

**Mrs O'Neill:** So it's a lack of definition. I think you're going to find that the municipalities are going to be very disappointed that you pulled this out.

**Mr Wildish:** If there is a portion of this that is not defined here, of course it could be defined under one of our motions in the regulations. Does that help you at all? The term "unsafe" is defined here, as of course that's what it's all about. But if some part of this "unsafe" uses a word that's not defined here, it could be defined under one of our motions in the regulations.

**Mrs O'Neill:** I guess it's the land part that is my main concern, although I have others about the buildings. Land has a new emphasis and the way in which things happen regarding the relationship of buildings on pieces of land seems to have a whole lot of new profile. I'll leave it, because I think you've done the best you can in answering my questions.

**The Chair:** I have Mr Lessard and Ms Poole. I'll simply note that prior to beginning today we agreed we would complete our hearings today at 5 o'clock, but I would like us to complete our discussion of this item. We'll move to Mr Lessard.

**Mr Lessard:** I'll be brief and just indicate that I'm going to be supporting this motion.

**Ms Poole:** I too will be brief. I wish to make two points. The first is just kind of an aside. Mrs Harrington has referred several times to the act not being amended for 17 years. It is my understanding, and I certainly stand to be corrected, that this legislation was amended in 1983, so indeed it's only been a mere nine years since it was last amended. That's just for your information.

The other point is that in an effort to be helpful to the committee, I would like to give an example that recently occurred in our neighbourhood that might explain why clause (c) could be interpreted too liberally and do things you don't intend to do.

We had a big fire on Banff Road. A brand-new building, a town house, was gutted. My neighbour's house was right next to this building. Her house was slightly lower than the neighbouring building, so every time it rained, all the soot from the fire would run from the higher roof on to her house and it would cause damage to the neighbouring building in that her white siding was all covered with soot. One could say yes, that was damage, but it really doesn't render the building beside it unsafe. It could be rendered unsafe for other reasons. You could have instances like that, where it would create damage but not to such an extent that it's unsafe.

I'm not thinking it's all that bad an idea to take a second look at that and put it in more specific terms, because damage has a very wide connotation and you could

have a lot of very frivolous claims under this unless it is made more specific.

Interjection.

**Ms Poole:** That's right. I just had to tell my little story.

**The Chair:** Okay. Could I then put the government motion and ask, shall the government motion to subsection 15(2) carry? Opposed?

Motion agreed to.

Section 15, as amended, agreed to.

**The Chair:** Just because we're on a bit of roll and there are no amendments to 16, shall section 16 carry?

Section 16 agreed to.

**The Chair:** Okay. Now, just a couple of notes. We'll be meeting in committee room 1 tomorrow.

**Mrs Marland:** Is it air-conditioned?

**The Chair:** It is our hope that we will be somewhat cooler there. So that'll committee room 1 at 10 o'clock.

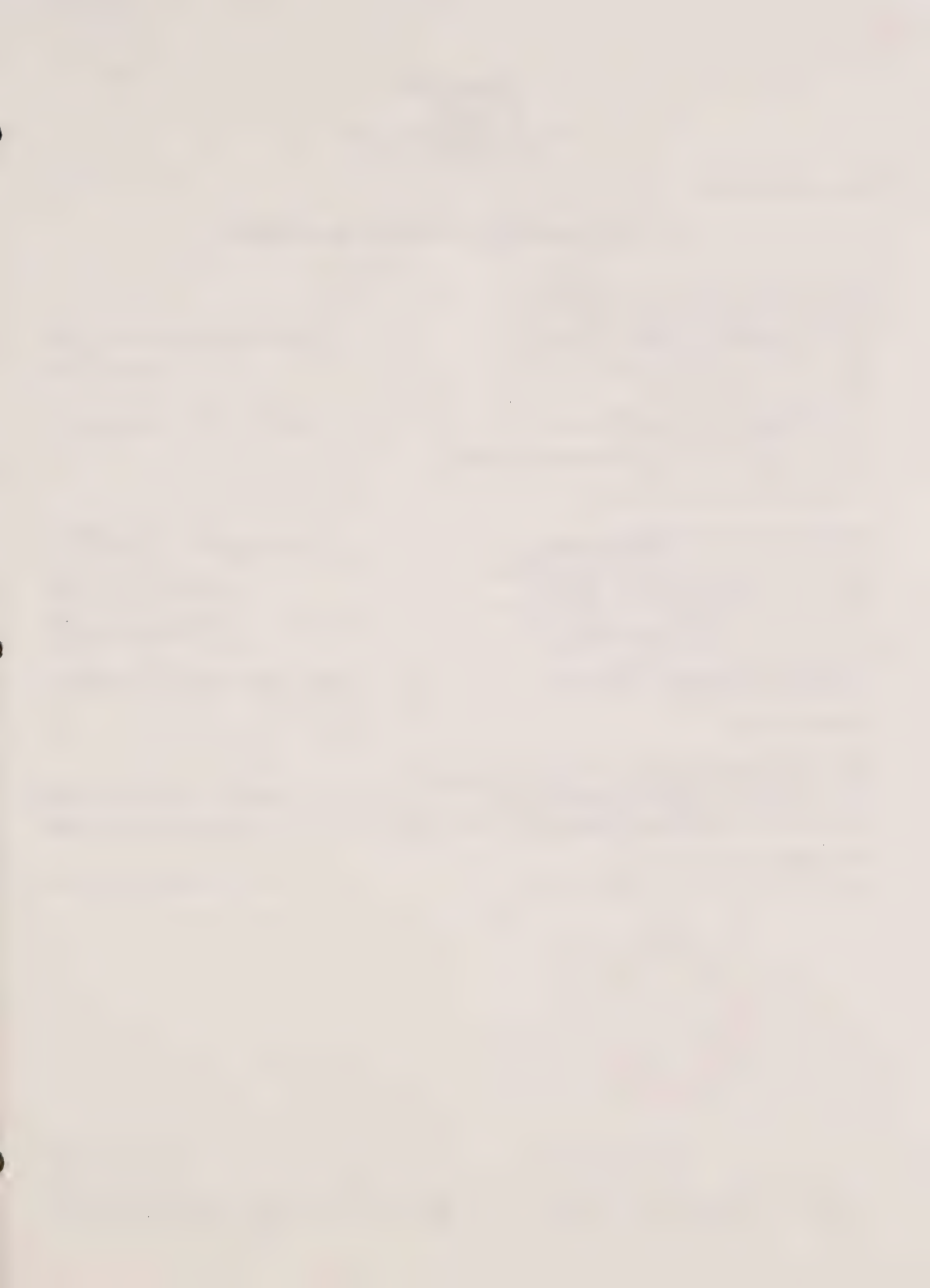
Could I also note for the committee that we have now completed 16 sections. There are 44 that we need to deal with. The House leaders have allocated us today and tomorrow. I simply note that and indicate that we are trying to complete our hearings on this bill.

If there are no further questions before us, the committee stands adjourned until 10 o'clock tomorrow morning in committee room 1. Thank you.

The committee adjourned at 1702.







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#### **Substitutions / Membres remplaçants:**

- \*Harrington, Margaret H. (Niagara Falls ND) for Mr Martin
- \*Lessard, Wayne (Windsor-Walkerville ND) for Mrs Mathysen
- \*Marchese, Rosario (Fort York ND) for Mr Drainville
- \*Marland, Margaret (Mississauga South/-Sud PC) for Mrs Witmer
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- \*Perruzza, Anthony (Downsview ND) for Mr Owens
- \*Poole, Dianne (Eglinton L) for Mrs Fawcett
- \*Tilson, David (Dufferin-Peel PC) for Mr Jim Wilson

\*In attendance / présents

#### **Also taking part / Autres participants et participantes:**

Harrington, Margaret, parliamentary assistant to the Minister of Housing  
Parrish, Colleen, director, legal services, Ministry of Housing  
Wildish, George, special assistant to the director, Ontario buildings branch, Ministry of Housing

**Clerk / Greffière:** Mellor, Lynn



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## Legislative Assembly of Ontario

Second session, 35th Parliament

# Official Report of Debates (Hansard)

Tuesday 15 September 1992

## Standing committee on social development

Building Code Act, 1992

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

# Journal des débats (Hansard)

Tuesday 15 septembre 1992

## Comité permanent des affaires sociales

Loi de 1992 sur le code du bâtiment



Chair: Charles Beer  
Clerk: Lynn Mellor

Président : Charles Beer  
Greffière : Lynn Mellor

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 15 September 1992

The committee met at 1008 in committee room 1.

### BUILDING CODE ACT, 1992

#### LOI DE 1992 SUR LE CODE DU BÂTIMENT

Consideration of Bill 112, An Act to revise the Building Code Act / Loi révisant la Loi sur le code du bâtiment.

**The Chair (Mr Charles Beer):** I will call the meeting to order. We're resuming clause-by-clause on Bill 112, An Act to revise the Building Code Act. Members of the committee will recall we had completed up to the end of section 16, save for section 7, where we had been looking at clause 7(g). It had been suggested that we stay clause 7(g) and hence the whole section to see if we could come up with some wording that everyone would be comfortable with. We have that now; at least we have the Liberal motion on clause 7(g). I wonder if either Ms Poole or Ms Harrington—

**Ms Margaret H. Harrington (Niagara Falls):** Could I address it, please?

**The Chair:** Yes, Ms Harrington.

**Ms Harrington:** We have discussed this with our advisers in the ministry. I would ask if we could further stand it down until this afternoon. What we are doing this morning is calling the Toronto Area Chief Building Officials Committee, which had proposed our position to us. We do have some sympathy with the Liberal motion in the interests of streamlining the building industry and also making sure that affordable housing is enabled in any way it can. So that's what I would like to propose to the committee at this time.

**Ms Dianne Poole (Eglinton):** Certainly that would be satisfactory.

**The Chair:** All right, we'll stand that down then until later this afternoon.

#### Section 17:

**The Chair:** We will then move on to section 17. There is an amendment. The clerk has handed out a new package, but the single sheet for subsection 17(3.1) is the one that we should look at. Don't look at subsection 17(3.1) in the package. I'd ask Miss Harrington if she would bring that amendment forward.

Ms Harrington moves that section 17 of the bill be amended by adding the following subsection:

"No liability

"(3.1) Despite subsection 31(2), the crown, a municipal corporation, a county corporation or a board of health or a person acting on behalf of any of them is not liable to compensate the owner, occupant or any other person by reason of anything done by or on behalf of the chief building official or an inspector in the reasonable exercise of his or her powers under subsection (3)."

**Ms Harrington:** I would like to read into the record the reason for this amendment, which you do have before you.

"Section 17 permits a chief building official to take expeditious remedial action when he or she is confronted with a building in a very dangerous condition. This remedial action may be taken even before an order has been served on the person affected and this person has had an opportunity to appeal the validity of the order to a court under section 25.

"After taking the remedial action, the chief building official must, under subsection 17(6), apply to a court for confirmation of the order and recovery of sums expended by the municipality in remedying the situation.

"Should the court fail to confirm the order, the municipality may be concerned about its liability to compensate the owner or occupants of the property for losses arising from the municipality's remedial action. This potential liability may inhibit the chief building official from taking remedial measures under section 17, even though a public danger may exist.

"In order to provide some protection for municipalities when, in the public interest, they take immediate remedial action in such situations, it is proposed to exempt them from liability for taking the remedial action, so long as the action was taken in a reasonable manner.

"This will provide the same protection as is accorded to municipalities under subsection 31(24) of the Planning Act where, under circumstances similar to those in section 17 of Bill 112, the municipality may take emergency remedial measures prior to notifying the person concerned and prior to that person having an opportunity to appeal the order.

"The chief building official and inspector are not included in the proposed amendment as they already possess an immunity from proceedings for damages for acts done in good faith in the execution of their duties (ss 31(1) of the bill).

**The Chair:** Comments?

**Ms Poole:** Having just looked at the revised one, it appears there isn't a lot of change to what was originally proposed as an amendment by the government.

This would seem to be quite a reasonable protection for the municipality, because my understanding is—and perhaps the parliamentary assistant or Mr Wildish could confirm this—that these are only situations where the building poses an immediate danger to the health or safety of people. So we're talking about an emergency situation, health and safety, and this is just to enable the municipality to take corrective action very quickly without having to worry and get legal opinions over whether it's going to be sued and liable and this type of thing.

**Ms Harrington:** That is correct.



**Ms Poole:** I think, in the face of that, we will support it.

**Mr David Tilson (Dufferin-Peel):** I have no comment, although I have a question to Ms Parrish. I assume there's somewhere in the act—I'm looking at subsection (2).

**Ms Colleen Parrish:** Of section 17?

**Mr Tilson:** Yes.

**The Chair:** Ms Parrish, why don't you come forward.

**Mr Tilson:** It's a very brief question.

**The Chair:** That's all right. I just think there may be a number. Why don't you just ensconce yourself at the table and then that way you don't have to keep moving back and forth.

**Mr Tilson:** Just out of curiosity, Ms Parrish, and I'm sure there's somewhere in the code, I just want to be assured there is, is there some section in the code or the act that tells the chief building official what service is?

**Ms Parrish:** Yes, there is. I'll have to—

**Mr Tilson:** I don't need to know, but by person or delivery or posting up.

**Ms Parrish:** Yes. I'll tell you what, over the break I'll pull out the section for you and you can see what it says.

**Mr Tilson:** I'm sure it's the usual section that's in most—I don't need to look at it. That's fine.

**The Chair:** Any other comments? If not, shall the government amendment, subsection 17(3.1), carry?

Motion agreed to.

**The Chair:** Shall section 17 carry, as amended?

**Ms Poole:** I'm sorry, Mr Chair, isn't there a Conservative amendment?

**The Chair:** I apologize, I forgot there is a Conservative amendment, so we will withhold on the section. Mr Tilson, you have an amendment to subsection 17(8) which we will need to deal with before we deal with the whole section. Would you care to comment on that?

Mr Tilson moves that subsection 17(8) of the bill be amended by adding "and binding" at the end of "is final."

**Mr Tilson:** The rationale for that amendment, if I can find my notes, although if I find them I probably can't read them anyway, was that one of the delegations referred to a legal decision which questioned the effect of the legal interpretation of the appeal process and referred to a decision—if you'll bear with me, perhaps I'd better find it.

**The Chair:** Please.

**Mr Tilson:** I think this was a recommendation of the Canadian Bar Association—Ontario and it was at its initiative that we put the amendment forward. I don't know whether any of you have your CBA package and its comments on 17(8). They refer to a judicial decision, and maybe Ms Parrish could give her thoughts on that submission that was made by the Canadian Bar Association. They suggest that this wording be put in, and the representatives of the CBA indicated that:

"This is intended to mean that there is to be no right of appeal. The words 'final and binding,' found in the Plan-

ning Act, 1983, which have been interpreted by the court in the Yorkville North Development decision, would be preferable, because the court found in that decision that the word 'final' does not abrogate an appeal, whereas the words 'final and binding' do."

I guess if that's the intent of what the bill is going to be doing, and this is a decision that came forward in the court as to making it clear what the intent is, we felt that perhaps that amendment should be made. I don't know whether Ms Parrish has any strong feelings about the Yorkville North decision, but I'd like to perhaps hear her thoughts.

1020

**The Chair:** Ms Parrish, any strong feelings?

**Mr Tilson:** She probably hasn't even read it.

**Ms Parrish:** Actually, it's kind of a famous decision. I guess my concern about adding the term "binding" is that it creates, from my viewpoint, some sort of interpretation problems. For example, if you look at subsection 24(4) of the act, you'll see that you get exactly the same language. It says here that the decision of the Building Code Commission is final, so do we mean that it's final and not binding? But it's binding here.

My interpretation would be that all of these decisions are binding until they are overturned by another court and that the decision of the court is final and is not appealable except under judicial review. It's true that if you had a judicial review at the end of the day, the court could overturn that decision, but in the interim, all of these decisions are binding.

For example, the emergency order is binding until the courts say it isn't. My concern is, if you say this is final and binding and you don't say everything else is binding, then you suggest that it's binding and that people don't have to obey these orders until the court says, "This is final and binding."

I think that all of these orders and decisions are binding until a court comes along. I have to say I respectfully disagree with the interpretation of the Yorkville North decision as to essentially these sort of privative clauses, as they're called in the jargon, as to what prevents anybody else from looking at a case.

I think the magic word is "final," which deals with whether or not it's a final decision, but everything is binding, including this emergency order. My concern is, if you put "final and binding" here, you suggest that everything else is not binding and that you don't actually have to obey any of these orders until this court has agreed. Then later on, when you have exactly the same language in the commission where it says "final," if you don't put "binding" in there too, then people are going to say, "Well, we don't have to obey that either." The point we want to make here is that you must obey every order until the court says otherwise.

**Mr Tilson:** Obviously I don't feel that strongly about the issue. It was an issue raised by the bar people. What did the court say as to what those words mean? They didn't just make this up; obviously there's some rationale for that.

**Ms Parrish:** If you would like, I can obtain this decision and try and interpret it for you. I guess I just wouldn't interpret this case as standing for that, so narrow.

**Mr Tilson:** Perhaps we could set this down. Obviously if there is a problem that's been created as a result of this case, we should probably deal with it while we're going through these sections. Maybe there are other sections that need to be amended as well. The reason why we put this forward is that if this is a problem, now's the time to deal with it, as opposed to waiting and having some court tell us what it means.

**Ms Parrish:** Honestly, I don't think it is a problem.

**Mr Tilson:** I accept that, but perhaps, Mr Chairman, you have no objections to setting that down for a period of time to allow Ms Parrish to pull that report out.

**The Chair:** Ms Parrish, is that something, in terms of the judgement, that we could look at right after lunch?

**Ms Parrish:** We have to pull the case. I guess all I'm going to say is just that, again, I—

**Mr Rosario Marchese (Fort York):** I would like to hear Mrs Harrington on this in terms of response to the amendment, because if it's an issue of consistency, surely if we have no problem with the word "binding," then you make it consistent. The word appears in 24(4) and you say "final and binding." That's not a big deal.

It seems to me logical that a final decision is not necessarily "binding," which is what I think you're getting at, although I hear from Ms Parrish that "final" means "binding" or that all decisions are final until reversed by court, for example.

**Ms Parrish:** No. What I'm trying to say is quite the contrary. All the decisions are binding until a court overrules them. They're all binding decisions. They may not be final because they're subject to appeal, but they certainly are binding.

**Mr Marchese:** If all decisions are binding, then if you put "final and binding," then it's not a big problem to say "binding," if all decisions are final and binding. If it satisfies some people, then I wonder whether there are any problems. I wanted to hear, before we sent it down, whether that is useful to do.

**Ms Harrington:** We have had a look at it and we found it was not necessary to have it, from our point of view. I don't want to get tied up in this binding stuff for ever this morning, but if you do want to look at that one particular decision, maybe I could ask Ms Parrish. It's broader than this one other section 24.

**Ms Parrish:** Yes, it is, because it is suggesting that all these other orders that have been made are not binding. I think they are binding. They're all binding, they're just not final.

**Mr Tilson:** I'm not suggesting anything. I'm simply saying we had a delegation come forward with this suggestion. I think if the solicitor for the Minister of Housing says she respectfully disagrees, that's fine, but I would like her at least to have a second look at the report.

**The Chair:** Could I perhaps suggest, so we can move along, that if Ms Parrish could have a look at that over the

lunch break, we could deal with that fairly expeditiously when we come back. So we'll just put aside 17.

**Mr Marchese:** We won't review the entire case.

**The Chair:** No, but I think it may just help if that can be noted. Let's move on to 18, and we'll come back to 17 once we've dealt with that.

Sections 18 to 20, inclusive, agreed to.

Section 21:

**The Chair:** We then come to section 21. There is a government motion. I would just like to note for all members, in particular the two opposition members who have also moved amendments to section 21, that we will be dealing first with the government motion. If that passes, it would then render the other amendments null and void. So if everyone would keep that in mind, the discussion on the government motion may encompass the other proposals as well.

**Mr Tilson:** With respect, there is a Liberal amendment which is adding a section which—

**The Chair:** Sorry, I didn't state that clearly enough. There could be an addition or an amendment to that. We'll go ahead with the government motion. I think your comment is appropriate that there are a couple that could be discussed because they amend or add, but let's deal with the government motion first.

1030

Ms Harrington moves that section 21 of the bill be struck out and the following substituted:

"Warrant for entry and search

"21(1) A provincial judge or justice of the peace may at any time issue a warrant in the prescribed form authorizing a person named in the warrant to enter and search a building, receptacle or place if the provincial judge or justice of the peace is satisfied by information on oath that there is reasonable ground to believe that,

"(a) an offence under this Act has been committed; and

"(b) the entry into and search of the building, receptacle or place will afford evidence relevant to the commission of the offence.

"Seizure

"(2) In a search warrant, the provincial judge or justice of the peace may authorize the person named in the warrant to seize anything that there is reasonable ground to believe will afford evidence relevant to the commission of the offence.

"Same

"(3) Anyone who seizes something under a search warrant shall,

"(a) give a receipt for the thing seized to the person from whom it was seized; and

"(b) bring the thing seized before the provincial judge or justice of the peace issuing the warrant or another provincial judge or justice to be dealt with according to law.

"Expiry of warrant

"(4) A search warrant shall state the date on which it expires, which date shall not be later than fifteen days after the warrant is issued.

"Time for execution



"(5) A search warrant may be executed only between 6 am and 9 pm unless it provides otherwise.

"Application

"(6) Sections 159 and 160 of the Provincial Offences Act apply with necessary modifications in respect of any thing seized under this section."

**Ms Harrington:** The reason for this amendment is to bring the provisions for search warrants in Bill 112 into conformity with current developments in this area, as most recently reflected in the draft consultation paper called An Act to amend the Planning Act and the Municipal Act with respect to Residential Units and Garden Suites. The search warrant provisions for the Planning Act proposed in the consultation draft and those proposed for Bill 112 would be essentially identical and would thus help to contribute to uniformity and consistency across Ontario legislation in this area. Except for the requirement respecting the intention to seize evidence of an offence, the two pieces of legislation would be the same in their provisions respecting search warrants as the Provincial Offences Act, with which most municipal officials are familiar.

**The Chair:** Is there any further comment on that at this time? No. We'll move to Ms Poole.

**Ms Poole:** Mr Chair, I've just been advised that what was a Liberal motion, subsection 21(1.1), should instead be moved as an amendment to the amendment of this section. Would you prefer that I move that at this time or would you prefer to have discussion on the main motion first?

**The Chair:** I think the way we should do this, subject to the clerk, is that you should move your amendment—

**Ms Poole:** Then discuss the whole thing.

**The Chair:** Yes. Then we would vote on the amendment to the amendment and then on the amendment.

**Mr Marchese:** You've got it.

**The Chair:** Mr Marchese indicates that I've got it. Thank you. The Chair is learning quickly on the job.

Ms Poole moves that subsection 21(1) of the amendment be amended by adding the following subsection:

"Warrant to inspect

"(1.1) A justice of the peace may issue a warrant in the form prescribed by the regulations authorizing an inspector to enter upon the land specified in the warrant to carry out an inspection if the justice of the peace is satisfied by information on oath that,

"(a) there is reasonable ground for believing that it is necessary to carry out an inspection to determine whether an order should be made under this act or whether an order made under subsection 15(3) has been complied with; and

"(b) the inspector has been denied entry to the land, has reasonable grounds to believe that entry would be denied, has been obstructed or has been refused the production of any document or thing."

**The Chair:** Thank you. Just to remind members, then, we can discuss both, but we will vote on the amendment to the amendment and then on the amendment.

**Mrs Yvonne O'Neill (Ottawa-Rideau):** Mr Chairman, I think we should be describing it as it is. I think we

need to say that section 21, as now presented, be amended as follows; that's not the way? We're dealing with an entirely new section. I don't know how we can talk about a section being amended when it's been totally wiped.

**The Chair:** But it hasn't happened yet. We are still discussing the government amendment, which is to change 21. But we haven't passed that, so it is an amendment and Ms Poole's at this time is an amendment to that amendment. If I understand the government, it's really substituting a new 21.

**Mr Tilson:** I think I'd prefer to deal with the government amendment first and the Liberal amendment second, because it's possible that members of the committee may be in favour of—

**The Chair:** That's fine. You can do that. I just meant if people wanted to.

**Mr Tilson:** That's fine. So we're discussing the government amendment?

**The Chair:** We're discussing both.

**Mr Tilson:** That's out of order. You can't do that.

**The Chair:** No. Again, the government motion is to replace what is in the bill with section 21. Ms Poole's motion is to amend that.

**Mr Tilson:** Well, that's fine. Let's see; we may not get past this government amendment. Somehow I think we will, but it's out of order, Mr Chairman.

**The Chair:** The first issue, though, that we'll have to deal with is that because Ms Poole's amendment is an amendment to the government amendment, we will have to vote. We can discuss both at the same time.

**Mr Tilson:** Mr Chairman, could I ask you to converse with the clerk, because I don't—

**The Chair:** I have.

**Mr Tilson:** You have done that? And the clerk agrees?

**The Chair:** I've been trying to follow the instructions on procedure. What I am told is that Ms Poole's is an amendment to the government amendment and that in the order of voting we must deal with Ms Poole's first, but that we can discuss both at the same time.

**Mr Marchese:** Mr Chairman, I think it would be useful to speak to the amendment to the amendment first and then speak to the main motion to substitute, otherwise it can be confusing. It would be much easier to speak to Mrs Poole's amendment first, then move on to the main motion.

**Mr Tilson:** I may support one and not the other.

**Mr Marchese:** That's fine.

**Mr Tilson:** How can we discuss an amendment to an amendment that hasn't even carried yet?

**Mrs O'Neill:** That's exactly what I say: It's totally illogical. I'm sure it's not according to the rules of order we have used in the past.

Interjections.

**The Chair:** Can we just pause for a moment?

**Mr Tilson:** Sure, we can pause, Mr Chairman.

**The Chair:** I recognize the issues in terms of the order of things. If this government amendment is passed,



that is the end of section 21. So if there is an amendment to it, it must be moved prior to the passage of the main amendment. What we need to do, then, is to deal with both.

I'm in the committee's hands in terms of dealing with Ms Poole's amendment first, if we want to discuss that, and then discussing the government motion. But if we were simply to deal with the government motion and pass it, then we could not deal with Ms Poole's amendment.

With that, just so we can move on, Ms Poole, do you want to just set out your arguments with respect to your amendment to the amendment?

**Ms Poole:** Let me put it this way. When somebody moves an amendment or an amendment to an amendment, there's always an opportunity to explain what the rationale is behind it, so that is what I will do. Then, after that if members wish to deal with either, they would probably be free to do so.

**Mr Tilson:** On a point of order, Mr Chairman: I take the position that if we're dealing with Ms Poole's amendment now, then the proposed amendment by the government doesn't even exist at this stage.

**The Chair:** Both have been put on the table.

**Ms Poole:** They have to be.

**Mr Tilson:** You can't do that.

**Ms Poole:** That's the way the rules say you have to do it.

**Mr Tilson:** You can't have two amendments on the floor at the same time. I've never seen it done anywhere.

**The Chair:** I understand that one can and that we have, and I would ask Ms Poole to provide her explanation for her amendment.

1040

**Ms Poole:** We did have some extensive conversations and debate yesterday about a warrant to enter and inspect. This is again an amendment on the suggestion of the Toronto Area Chief Building Officials Committee, which has suggested that the wording in Bill 103 would actually be far better than what is in Bill 112.

My understanding, from looking at this, is that this is not subject to the charter argument that the motion we brought forward yesterday was. Before we continue even debating this or the amendment, perhaps Ms Parrish could confirm that to the best of her knowledge there would be nothing that contravenes the charter in this particular amendment.

**The Chair:** In terms of your amendment to the amendment?

**Ms Poole:** In terms of my amendment.

**Ms Parrish:** The Liberal amendment to subsection 21(1)?

**The Chair:** Just to be clear here, there are two brief amendments to subsection 21(1) and then the one you read. But you're talking about the one you read into the record, the longer one.

**Ms Parrish:** I have to say I'd like to ask for a little bit more time to look at this. My sense is that there's not a

charter problem with clause 21(1.1)(b). In fact, there are quite a few statutes that say if you've been denied entry you can get a warrant. I'm not sure; the opening flush raises the same issue around whether or not you can obtain an inspection warrant.

My view is that inspection warrants are not justified if you are entering a dwelling place or if you are obtaining evidence of an offence, that under those two circumstances the charter prohibits entry except with a search warrant and would permit entry for the purposes of inspection if it is not a dwelling unit and you are not obtaining evidence related to an offence.

**Ms Poole:** Is that the same, then, even if there's a warrant involved?

**Ms Parrish:** You have to issue a search warrant.

**Ms Poole:** It cannot be an inspection warrant?

**Ms Parrish:** There's no animal. There's a search warrant and there's warrantless entry, and that's all there is. So if you want a warrant, it's a search warrant. The only difference you're making under this statute, as you are under a number of other statutes, is that it used to be that the only warrant you could get was a search-and-seizure warrant, which meant that you said, "I want to search and seize something."

That kind of warrant is not terribly useful where you're trying to find out about a condition. If what you want to find out is that there's some sort of inadequate condition, you can't seize it. You can't seize the lack of exit or whatever you're unhappy about. What all these provisions are trying to do essentially is to create a warrant which is called a search warrant, in which you don't have to seize anything, because normally you have to seize something when you get a warrant.

There's no such thing as an inspection warrant. You can either have a search warrant—and you can get a search warrant under certain conditions—or you can have warrantless inspection. The act does authorize warrantless inspection, but only in very rare cases or defined cases such as where you've applied for a building permit and you're inspecting a site for that purpose.

**Ms Poole:** So then it is in your opinion, if I'm reading this correctly, that to have an inspection warrant itself, which doesn't exist—if it did exist, under clause (a) it would be contrary to the charter?

**Ms Parrish:** It certainly would be contrary to the charter if you were trying to enter a dwelling place or if there were any possibility that you were going to charge someone with an offence. So the question is whether an order should be made under the act or whether an order has been complied with. The remedy for orders that are not complied with may be prosecution. In that case, you've got a problem.

**Ms Poole:** One last question for you, then. Under the government's amendment to subsection 21(1), where it says "warrant for entry and search," could that apply to a dwelling place?

**Ms Parrish:** Yes.

**Ms Poole:** That can apply to any place?

**Ms Parrish:** Yes.

**Ms Poole:** So you can have a warrant for entry and search if you can't have a warrant for inspection.

**Ms Parrish:** That's right.

**Ms Poole:** For some reason which seems to elude me, the charter has decided that if it is a dwelling place you can't enter to inspect it; but you could, with the appropriate warrant, enter to search it.

**Ms Parrish:** You cannot have a warrantless entry in a dwelling place and you cannot have a warrantless entry where you are attempting to have an offence proved.

**Ms Poole:** But this would be a warranted entry for inspection.

**Ms Parrish:** Yes. I will explain to you the rationale that has been given to me in these cases that have been under the charter. Bear in mind that the charter doesn't lay out all these rules. What has happened is that over time there have been cases and the courts have said various things. What the courts say about all these kinds of provincial offences, searches and so on is that the intrusion of the state has to be limited by the necessity of that intrusion. So what has tended to be the case is, for example, that the courts will say, "If you need to have entry to save somebody's life, we won't require the same standards of protection against intrusion because we all agree that saving somebody's life is a higher good." So it's a "reasonable" provision.

What the courts have said is that if you're trying to prosecute somebody because you have reasonable and probable grounds to believe that he or she has broken the law, then that intrusion is warranted because people are not supposed to break the law. If you have reasonable and probable grounds to believe that they have and there is evidence in that place, you should be able to enter. What's more, the courts say there's a higher degree of privacy afforded to dwelling units than to business places, so you have to obtain a search warrant if you want to enter a dwelling place.

What the courts have tended to say is that laws that authorize people to simply go and look around because they think something don't stand up to the sort of task of how reasonable the intrusion should be.

As I said, it's an evolving area of law. There have been a number of cases that have come out in the last few years that didn't exist three or four years ago. What the courts are trying to do is to balance the degree of intrusion. The courts have tended to say: "Where you have reasonable grounds to believe that people are breaking the law, then it's okay to go in. But if what you want to do is just go in and eyeball the place and people will not consent, we are reluctant to give those powers to provincial civil servants because we're not dealing with the kind of situation that warrants that kind of intrusion." I should say that in reading the CBAO brief, it says the same thing.

It's really a question of balancing. Where we're dealing with emergency cases, I think you can go ahead. Where you're just dealing with sort of a desire to go in and look around, I think you've got a problem.

**Ms Poole:** Is it mitigated by the fact that it's necessary to have reasonable grounds before you can get this warrant to inspect?

**Ms Parrish:** As I said before, I think the courts are more likely to uphold provisions that say you have reasonable and probable grounds to believe that there's an offence and that there's evidence of the offence, because people are not supposed to disobey the law. So what the courts would say exactly about a provision like this, I'd have to say I think it's on the grey line.

The question is, what is an appropriate level of intrusion that the courts will support? If we give municipal inspectors laws that will be struck down, we don't give them any favour. That is, they'll have something they can't use. As I said, there have been cases that would indicate that in general the amount of intrusion you've got to have has to be justified, and if you've got no offence and no reasonable grounds to believe you've got an offence, I think you're really in a grey area. But I can't guarantee it. I have to be honest and say there hasn't been enough law. There have been some cases, and the courts are pretty sympathetic to the rights of individuals versus the rights of the state to intrude.

1050

**Ms Poole:** It would seem to me, if we are running up against the charter argument again, that it is no use putting into the bill something you have reasonable and probable grounds to suspect may be struck down, so I will withdraw the amendment to the amendment.

**The Chair:** All right, the amendment to the amendment is withdrawn, which removes other points in dispute. We will continue to deal with the government amendment. Further discussion on the government amendment?

**Mr Tilson:** The government amendment is an interesting one. It looks to me like a carbon copy of the search warrant provisions in Bill 121, which is the rent control bill. That section got me all excited then and it gets me all excited now because it's very broad. At least, I believe it's very broad.

The first issue is, it says, "authorizing a person named in the warrant." I don't know what that means. That could be anybody. Is it the building inspector, the chief building official? Is it the building official's secretary? It could be anybody. Can anybody go and get one of these things?

The second issue is, it says they can "enter and search a building, receptacle or place." That may not necessarily be the building in question. It may mean that one is looking for records. The same arguments were made during the Bill 121 arguments. Essentially, for example, someone's records, the owner of the building's records, if that's what you're looking for, perhaps the plans, it could be anything, could be kept in someone's house, someone's home, another building, another building across town, a person's home across town, the owner's home across town, and they could literally go into his private home or any other building. So it's very general.

If a justice of the peace is satisfied that an offence under this act is committed, I guess that is specific, but clause 21(1)(b) certainly talks about the building, receptacle or



place. Again, the same argument applies that it could be anywhere, it could be any building, it could be anybody's house, which may be really an unwarranted search. You may believe that the records aren't kept in the person's building that is under review; they may be kept in someone's house. They can go into someone's house with this order.

Subsection (2) says they can seize anything. They go in the house; they could find something that's interesting. It's like, "We're going to shoot first and ask questions later." It's like a fishing expedition of great magnitude. I guess it's just that the very unrestrictive provisions of this section enable someone to get a warrant to search something or some building, not necessarily the building we're looking for.

Clause (3)(b) says they've got to bring the things seized to the judge. It doesn't say when.

With due respect, I hope Ms Parrish didn't prepare it. It's a very sloppily prepared section. I say that with due respect, because it's the same section that came forward in Bill 121.

**Mrs Margaret Marland (Mississauga South):** I'm just suggesting Ms Parrish might like to say she didn't.

**Mr Tilson:** I'm sure she will; you're quite right. Mr Chairman, Ms Marland has said that perhaps Ms Parrish would like to say that she didn't prepare it. In fact, it's improper for me to say that, but I would like some comments from Ms Parrish on those comments I've made as to whether or not she believes—I think we had this out before when we were discussing Bill 121, but perhaps we could have it out again.

**Ms Harrington:** Could I make a brief comment first? Your comments with regard to seizure under subsection (2): It says, "to seize anything that there is reasonable ground to believe will afford evidence relevant to the commission of the offence." So it's not just anything; it's quite specific. You have to convince the judge that there is reasonable ground here.

I want to ask, with regard to Mr Tilson's concern about going into another building or into some home to get records, whether or not that's a concern for you, Mr Wildish.

**Mr George Wildish:** I don't know if there's been a record of this kind of occurrence in the past, but you raised the point that material—samples, drawings, whatever—about a building may be stored somewhere else. I can imagine that the pursuit of this information may require going to someplace other than the actual dwelling. I can think, for example, of going to the architect's or the engineer's office, if that's where the evidence is located and the only way to get it would be to enter such a place.

**Mr Tilson:** It could be anywhere. It could be an engineer's office, it could be a law office, it could be an accounting office, a basement apartment. Interesting ramifications, Mr Wildish; that's all I'm saying. I believe they're very serious and we should consider them.

**Ms Harrington:** I'm just pointing out to you that this does not differ from what we have done in the past.

**Mr Tilson:** Oh, I think you're being consistent, Ms Harrington. No question about that. I feel as concerned now as I did with Bill 121. You are most consistent.

**Ms Harrington:** We're talking way before Bill 121. I'm wondering if Ms Parrish would like to comment on the drafting of this.

**Ms Parrish:** I'd like to comment on the substance. I didn't in fact prepare this amendment, but all the government amendments, of course, are exceptionally well drafted.

**Mr Tilson:** I apologize. I get all excited at times like this.

**Ms Parrish:** This provision is not actually identical to that in Bill 121. There are differences. For example, in Bill 121 there is a system for the establishment and appointment of inspectors, and only inspectors can get these warrants and so on. In this case, my understanding is the reason it is a little bit more open is that, as you know, different municipalities enforce their building codes with different personnel. So if we said it had to be an employee of the chief building official or it had to be this or that, you'd have a problem, because each municipality does this a little bit differently.

But clearly, the justice of the peace will authorize that person, and the person has to be authorized personally, so it will say, "I authorize Colleen Parrish, assistant building official, to do this." So the JP does go through a process of ensuring that not anybody wanders in.

1100

**Mr Tilson:** Excuse me. How do we know that?

**Ms Parrish:** Because the warrant is in a prescribed form, and the warrant, in any prescribed form I've ever seen, says "name of person." The JP looks for that and won't issue a search warrant unless those kinds of protections are there. That's why you go before a JP.

**Mrs Marland:** Can it name the Minister of Housing or a delegate, and then we don't know who's going in?

**Ms Parrish:** It has to be a person named in the warrant. So it has to be Colleen Parrish and it can't be George Wildish who enters. It has to be Colleen Parrish who enters. There is a process of identifying the person.

It is true that you could enter an accounting office or an architectural office. That is true. That's because you don't want people to be in the position where they can evade enforcement of the law by giving all their documents to their architect, for example. But first of all I have to say that I have reasonable and probable grounds to believe that an offence has been committed, ie, that you haven't built according to your filed plans, for example. Secondly, I have to say that I believe entry into the architect's office will give me evidence of the offence, ie, that they didn't build according to the drawings.

So it is true that you could enter into other than the subject building in order to obtain this evidence. If you couldn't, you probably would have a lot of difficulty enforcing these provisions, because people would just learn to hide all their documents in places you could never get search warrants for.

**Mr Wayne Lessard (Windsor-Walkerville):** It's been my experience that the granting of search warrants is something that's taken very seriously by justices of the peace and that they're not granted frivolously. In fact, if there was any problems that has been indicated to us by the



people who've made submissions before this committee, it's been that it's probably more difficult to get a warrant than it is easy to get one. I think that's something we need to keep in mind.

I think it's interesting that we're having this debate. I think it indicates some of the difficulties we have in balancing the rights of individuals to privacy and the ability of building officials to get information about offences, because before we had this debate about the possibility of building officials going on fishing expeditions, we were debating that we should have the power for building officials to go on fishing expeditions. So we're still dealing with the same issue and it's very difficult to resolve. That's a fine line that we need to keep in mind when we're debating these provisions.

There are some changes with respect to what was in the original bill and what's been proposed here and I wanted to ask about some of the changes I see. One of them in the original bill was that there was the ability to have police assistance in the execution of the warrants, and I don't see that in this section.

There was also a provision that there didn't need to be any notice to the person who was the subject of the search warrant in the process of getting the warrant, and there was another provision in the original bill that dealt with making copies or extracts of documents and then returning the documents. However, the final subsection of the amendment refers to sections 159 and 160 of the Provincial Offences Act, which I don't have before me but may address some of those concerns as far as procedure is concerned. I wonder if you could comment on those items, Ms Parrish.

**Ms Harrington:** If I could comment briefly and then turn it over to Colleen, what has been happening over a number of years, as you may be aware, is that the Attorney General has been looking at legislation in all ministries with regard to the issuance of search warrants. So this is an evolving process and it's been changing very recently.

To my knowledge, what we have done, in this change right now, as I've explained, is make it in line with the draft consultation paper on changing the Planning Act with regard to the residential units, that is, apartments and homes, so that both procedures will be the same. That's why we've changed in the last short while. Ms Parrish, would you comment further.

**Ms Parrish:** For example, one of the changes that has been made from the last draft changes the old provisions which said that you could execute a warrant at any reasonable time to say that you can only execute between 6 and 9. That's a change and that's part of the attempt to be more consistent and to ensure that people are not executing warrants in the middle of the night and so on. In the Rent Control Act, it says 7 to 9; that's a small change there.

**Mr Lessard:** I was asking about the assistance of the police.

**Ms Parrish:** The general rule is that you can use reasonable force, that the force has to be commensurate with the thing you are doing. For example, you can open a door; that is reasonable force. I believe that calling upon police officers for assistance is no longer done in provincial

offences. Regarding the use of force, the law is that it has to be reasonable force in the circumstances. To be blunt, you can't go around kicking down doors and so on in order to get architectural drawings. You can certainly open doors. You can certainly unlock doors and do things of that nature.

**Mr Lessard:** So you can call for police assistance if you think it's required.

**Ms Parrish:** Yes, if you're dealing with an emergency case—remember the emergency provisions we have where we're concerned with life and health and safety and so on—then it would be reasonable. But the courts are always on the lookout for the unreasonable use of force in proportion to the activity you're trying to prevent. It's all right if you're dealing with health and safety and imminent danger; if you're not, you have an issue of unreasonable force.

**Mrs Marland:** I too have a number of concerns with this section. For example, if the warrant permits the person named to seize anything, does it also, under law, give the person whose property is being seized the opportunity to copy something before it's taken? It says here that anyone seizing something has to give a receipt for the thing seized to the person from whom it was seized. But I can imagine a person saying, "I've got a number of files here and I'm giving you a receipt." I wonder what kind of protection is built in here for the public. Is the receipt going to document what is in those files? After my personal belongings are seized, will I know I'm going to get them all back or will I even know in detail what was seized?

It may be that a number of my files or a number of my bookkeeping records are taken. If I have a stack of bills for work that has been done on my building, I'm quite sure the receipt is just going to say "a number of bills." Yet it may well be that in there is a bill that is very important to my argument, my defence, and if they're going to seize the bill and it is lost, then my important piece of evidence might also be lost. I don't mind them coming in and demanding that I give them a copy of something, as long as I retain the original.

You can imagine some of the offices, if they are offices at home or offices in a commercial building—I bet if we walked out of this committee room and went to our own offices, we would all find that we all have piles of this, that and the other all over the place. The reason we have those piles is because we know there's something in there that we need and we haven't had the time to go through the pile to retrieve, keep and file those items we need. Agreed? Don't we all do that? It stands to reason the property owner, for the most part, probably works the same way.

I'm sure the receipt is not going to detail every single piece of paper they take out of the office, so I have a lot of concern about the section. It looks very clean. It looks like they're only going to seize something that's relative evidence and they're going to give a receipt. My point is that I may not even recall what, from my defence point of view, is a relevant piece of evidence that was in there, yet when I start looking for it, I'll recall that it was in the pile that was seized.

1110

I don't mind a warrant, or as I said yesterday, even having an inspection without a warrant. If this section was just to come in for an inspection, then I wouldn't have a concern about it, because the inspection is to find out if an offence is being committed, but when we get into searching and then seizing property, I do have a lot of concern about it.

I'll tell you something else that ties into this which I also have a lot of concern with. I should really wait till Ms Harrington comes back in, because it's regarding the comments she made yesterday.

Interjection.

**Mrs Marland:** Oh, you're here. Sorry. I thought you had gone out of the room.

In your opening remarks yesterday, Ms Harrington, on page 2, you talked about first, second and third points. At your third point, I got quite excited, because for a minute I thought you were going to answer my concerns about existing buildings, but in fact you go on to say, "I'll give you a few brief examples of the changes we propose for the committee's consideration." The second change you refer to here is, "The provision on search warrants has been altered to conform with the search warrant provision provided in"—guess what?—"the upcoming legislation concerning apartments in houses." What does that mean to us? We haven't seen the legislation. It's "upcoming legislation concerning apartments in houses." That something is upcoming doesn't give me any comfort that it's right, that it's fair or that it will work.

My concern about the provision of these search warrants is that they're just a little too powerful, based on the way they're executed. I think the public has to be protected. I think inspection has to be permitted. I'm concerned with the wording as it stands, unless there could be some assurance given to me that when you come in and seize my property, even if you follow me to a copier, you allow me to copy my material before you take it out from my place of operation. Would you consider that?

**Ms Harrington:** Letting you get to a copier? Is that it?

**Mrs Marland:** Would you consider permitting me to record, either through a copier or make handwritten notes, what it is that you're taking of my property before you take it, even, by necessity, if it's a lot of detail?

**Ms Harrington:** I'll let Ms Parrish comment on that and how it actually works in practice. But I do want to recommend to you Apartments in Houses, the discussion paper, and you will see the section here on search warrants. I'm sure you appreciate the consistency and how important that is within different pieces of legislation. I hope that is a positive step, to have consistency. Ms Parrish, would you like to comment with regard to copiers?

**Ms Parrish:** Yes. I think to some degree Mrs Marland and Mr Lessard were asking some of the same questions. Some of the answer is given in the sense that sections 159 and 160 of the Provincial Offences Act apply to these search warrant provisions. Section 159 provides that if you seize something, such as a record, you must bring it before the justice of the peace, and then the justice of the peace

says what you can do with it. You have to have a pretty detailed list, because the justice of the peace will require you to have a detailed list.

The justice of the peace can order you to authorize examination or testing, for example, if you're seizing insect samples, paint samples or in the reproduction of documents. Then you have a limited period in which you can maintain that material, which is no more than three months unless you come before the JP again. In addition, a person whose objects have been seized has the right to go before the justice to ask for a reproduction of any of the documents or testing of any of the material that's been seized. So there is a process.

I know that people who do seizures often allow people to copy the documents while they are there. Sometimes they seized things when people weren't there or the right people weren't there or they didn't know what they wanted to copy. But you can go before the JP and require that the material is copied.

There are also a number of powers here by which the JP can order the material to be returned, and the person whose material has been seized can make all these applications to the JP. There are certain restrictions in section 160 that deal with documents that are held by lawyers in solicitor-client privileged situations.

**Mrs Marland:** But you can keep it for three months. It may be income tax filing time, and I may be penalized three months' interest for late filing and an extra charge for late filing and everything else, but you're still allowed to keep my files, my records, for three months?

**Ms Parrish:** No, only if you have an order from a JP. The JP has to consider having regard to the nature of the investigation and so on. In addition, you can ask the JP to have all of this material copied. It's hard for me to imagine that the JP would deny you the right to have this material copied. Why would they?

**Mrs Marland:** Ms Parrish, when that material is taken from my house or my office, is it put in a sealed envelope and is it then opened in front of the JP or can it be opened somewhere else and material misplaced or lost? What kind of control is there? Do they just come in and scoop it all up and walk down the hall and out to the parking lot on a windy day, or is there a process whereby it's put in sealed envelopes and identified as my material and not opened until it is in front of the JP?

**Ms Parrish:** The Provincial Offences Act and this act do not authorize those kinds of procedures. Certainly, when you do training of inspectors, you train them in these kinds of prudent behaviours. The reason is partly because of the desire to maintain the property of others, but also because you want to be sure that you can establish that this evidence is in fact the evidence which you have seized. So people who seize evidence have their own reasons for wanting to make sure that this is their evidence and not evidence that they might have found blowing around the parking lot. They are trained.

It would be untruthful to say that it would be impossible that people could follow bad practices. There's no guarantee that everybody will be competent, but certainly



people are counselled and trained to maintain this evidence appropriately because if they don't they probably will have trouble proving the offence and that's why they seek this stuff to begin with. So they have their own reasons for wanting to maintain these records in good shape.

**Mrs Marland:** Or I might have trouble proving my defence because one of the most important invoices as to a major cost that I have had has now been lost between my office and the JP's office, if I haven't been allowed to copy it. I think that's very serious.

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**Ms Parrish:** I certainly cannot comment on whether or not people deliberately lose evidence.

**Mrs Marland:** Ms Parrish, that last comment you made, you don't want to comment on whether people would deliberately lose something. Nowhere in my questioning am I suggesting that anything is done deliberately. I'm not suggesting that. I'm saying it's possible, knowing how some files are put together and some records are kept in the individual's office or place of operation, that something can very easily be misplaced or lost—not deliberately, I wasn't suggesting that—by the person seizing the evidence. I'm simply being very clear about the fact that it may be very important to me and because you've come when I'm not there or my staff aren't there and I haven't had a chance to copy that material, then, wow, it's gone.

**The Chair:** Thank you. I have Ms Poole and Mr Tilson. I would perhaps just remind members, it's 11:20 and we are at section 21.

**Ms Poole:** I'll be quite brief, Mr Chair, because Mr Lessard brought up the one point about the police officers who had been removed, which I think has been answered satisfactorily.

The second one I was going to ask about was the specificity of the time for execution which has now been 6 to 9, which Ms Parrish had touched on. Quite frankly, I would be much more comfortable, if you are going to specify hours, that it would say 7 to 9, the same as in the Rent Control Act.

There's something very Gestapo-like to be woken up at 6 in the morning, when usually in Canada it's dark, by somebody banging on your home demanding entry with a search warrant. I think, while there are undoubtedly many people who do work shift work, most people are still abed at 6 o'clock in the morning or very close to waking up. Would it not be more reasonable to go with the 7 to 9? Is there any particular reason why you made that the terrible hour of 6 am? Particularly when it applies to dwelling places to as well, right?

**Ms Parrish:** My understanding is that 6 to 9 is the sort of standard provision that's being used in all the search warrant laws as they are changed in Ontario. Under the Rent Control Act we did stick with 7 to 9 because most of the inspections we have under that act involve residential units or offices in residential buildings or whatever, so we felt there was some justification to deviate from the norm; whereas in a lot of cases the inspections and so on and seizures may involve seizures on building sites and, as

you know, if you've ever had a building site nearby you, they're certainly on the job early in the morning.

I guess it's just a line-drawing exercise. I have to say that in general the government is using 6 to 9, but I can't say that 7 is not right or 6 is not okay. I think it's simply an attempt to have greater consistency. Certainly under the Planning Act I think it will be 6 to 9, so if it's all the same folks doing the inspections it's sort of easier if they all have the same rules in force, because otherwise they'll get confused. That's the best answer I can give you.

**Ms Poole:** Consistency is a good argument. I guess my only concern is the fact that existing buildings are now brought under the building code for all sorts of reasons, so it's not only new construction where you want to be able to go in there while construction workers are on the site and somebody's around. Maybe the question for Mr Wildish would be whether he would anticipate that this section would be primarily used for non-residential structures or about the search warrant provisions. In the best opinion you might have on the subject, do you believe it would be primarily used for non-residential structures?

**Mr Wildish:** We usually have very little trouble getting into non-residential places. Industrial buildings, commercial buildings—there's not much sensitivity about it and we get into those without a problem. It's when you enter a dwelling that we have the warrant problems. So no, I would say it is mainly for entering private dwellings that you have to have a warrant and hence this would come up.

I might point out that the "time for execution" phrase, (5), does provide for 6 am and 9 pm, unless it provides otherwise. If there's any reason why the judge wanted to restrict 6 am and make it only between 7 and 9, I presume he could do so, or he could extend it to 5 and 10, if there was some good argument for doing so. Ms Parrish may wish to comment on that, but I would think freedom was there under (5).

**Ms Poole:** So there would actually be no problem with making this consistent with the Rent Control Act, which primarily deals with residential dwellings, if this is also to make it 7 to 9, unless it provides otherwise. It would mean that if it was necessary, because somebody left for work at 6:30 every day and he or she wanted to be there before the person left, the order could provide otherwise. I'm just a little uncomfortable with that. I don't think the government would accept a friendly amendment to 7 to 9, but I'd be happy to propose it if that's possible.

**Ms Harrington:** From what Ms Parrish was saying, I'm not sure it's important to be consistent with all the other pieces of legislation or whether it would be more important to be consistent with the Rent Control Act. What is your legal opinion? It would be most helpful.

**Ms Parrish:** I think probably the act you want to be the closest to is the Planning Act, because it's usually the same folks who enforce both statutes. The people who enforce the Rent Control Act are provincial civil servants and, except in unorganized territories, they don't enforce the building code and they don't enforce the Planning Act. So the consistency I think is probably of the greatest utility



is with other statutes administered by municipal staff, which would be primarily the Planning Act.

**Ms Harrington:** I would like to hold with that then.

**Ms Parrish:** Ms Poole is certainly right in saying that a JP could say: "I won't issue a warrant for 6 o'clock in the morning. I will only issue a warrant for 9 to 5." They can do that and I've seen cases where they've done that, but, as I said, it's a line-drawing exercise. It's just an attempt to say at some level that searching people's houses in the middle of the night is not acceptable as a general rule.

**Ms Poole:** Could we have winter hours, when you know it's going to be dark at 6, during daylight?

**Ms Parrish:** We used to have it during daylight and that created a lot of problems, because warrants were always being struck down. There would always be this big argument—

**Ms Poole:** Particularly in Norway.

**Ms Parrish:** —about whether there was daylight. Was there daylight when it was raining?

**Mr Tilson:** I'll put my concerns on the record. I'd only like to repeat the submission made by TACBOC, which agreed with me that perhaps the section is too broad, and this is, of course, the original proposed amendment. Ms Marland has made some reference to this, but our position is that a warrant to inspect, as put forward in the previous government's bill, would be a more positive approach.

We agree with the delegation and that a warrant to inspect will be much more appropriate, as opposed to the general search warrant, because you get into all of these areas of concern that Ms Marland has raised. I don't think that many of those issues would develop if it were a warrant to inspect, and that's what we're trying to do. I have no hesitancy in saying that where you believe an offence has been committed—it's getting very quasi-criminal in the whole approach. I think what we are trying to do is to inspect these buildings.

I would hope that the government would reconsider its position and support the section that was in the old Bill 103, which is a warrant to inspect. So we will be opposing the proposed amendment.

1130

**The Chair:** I would then move the amendment. Shall the government amendment to section 21 carry?

**Mr Tilson:** A recorded vote.

**The Chair:** We will have a recorded vote.

The committee divided on Ms Harrington's motion, which was agreed to on the following vote:

**Ayes—6**

Harrington, Lessard, Marchese, Perruzza, White, Wilson (Kingston and The Islands).

**Nays—5**

Daigeler, Marland, Poole, O'Neill (Ottawa-Rideau), Tilson.

**The Chair:** The government amendment is carried. Because of that, the other proposed amendments to section 21 are out of order. I would then ask, shall section 21, as amended, carry? All in favour? Opposed?

Section 21, as amended, agreed to.

**The Chair:** Shall section 22 carry? Ms Marland.

**Mrs Marland:** The problem with declaring that the following motions were out of order as a result of the government amendment is that our amendments do not get in the record. I'm just wondering where the Progressive Conservative amendment, asking to insert after "warrant" in the 10th line "for inspection," is actually out of order. It's not changing the government motion and it's not changing the bill, except by addition. In other words, it's not contrary to the motions that have been passed.

**The Chair:** My understanding, Ms Marland, is that because those amendments are to the bill, they are therefore, with the passage of the government amendment, out of order. They would have to be, as in the way Ms Poole's was done.

**Mrs Marland:** Okay. The government moved, "That section 21 of the bill be struck out and the following substituted." The government has substituted a whole section, correct? So why is it out of order for us then to move a motion that says that subsection 21(1) of the bill now be amended—after "warrant" in the 10th line "for inspection"? Is it because the 10th line is the wrong number of lines?

**The Chair:** It is because the motion you were making was to the bill, not to the amendment. You would have had to move that to the bill before the amendment we passed had been passed, in the way Ms Poole did.

**Mrs Marland:** Yes, thank you, Mr Chair. I accept that explanation.

**The Chair:** Thank you. I appreciate your indulgence of the Chair.

**Mrs Marland:** It's too bad we didn't jump to move it, though, before we voted on the government replacing its section. I guess that's what we should have done.

Sections 22 to 24, inclusive, agreed to.

Section 25:

**The Chair:** There are two motions to subsection 25(1), one by the Liberals and one by the Conservatives. They are the same motion, so we will deal with them together. There is also a Liberal motion to 25(7). We'll begin, then, with Ms Poole and 25(1).

Ms Poole moves that subsection 25(1) of the bill be amended by striking out "who considers himself" in the first and second lines.

If you would like to address that, as I noted, the Progressive Conservatives have a similar motion.

**Ms Poole:** In fact, Mr Chair, I think the PC 25(1) is identical, if I'm not mistaken. Here we go again.

Right now, subsection 25(1) reads:

"Any person who considers himself aggrieved by an order or decision made by an inspector or chief building official under this act or the regulations, except a decision not to issue a conditional permit under subsection 8(3), may, within twenty days after the order or decision is made, appeal the order or decision to a judge of the Ontario Court (General Division)."

The particular instance that concerns this section was brought forward to us by the Price Club. Its submission, which in the opinion of a number of people on this committee was quite well founded, was that this section is too broad by allowing anybody who considers himself aggrieved by an order to actually appeal. Its concern is that any person can actually consider himself aggrieved. It doesn't have to be a person whom a reasonable person would consider to be aggrieved; it wouldn't have to be a judgement of the court. Anybody who considers himself aggrieved could actually appeal. It seemed to me, once it was pointed out, that it was a very broad section and very subjective.

A person walks her dog by a house once a month, for instance. The owners have received a building permit because they're putting in front-lot parking. None of the neighbours have objected, but this woman might object because the dog uses it as a watering lot the one time a month she walks that route. So she can consider herself to be aggrieved or her dog to be aggrieved. That's a silly example, but it is a situation which shows that a person who considers himself aggrieved may not, in the opinion of a reasonable person, actually be an aggrieved party.

The situation which the Price Club brought to us was actually considerably more serious than that scenario, but it did have a frivolous and vexatious element to it in that the competition allegedly wanted to delay the opening of the Price Club. Therefore it appealed a decision, allegedly without grounds, simply to stall the opening of the competitor's building. In fact, what happened in that particular situation was that it has been very costly to the Price Club. It has had to delay construction, and everything has been stayed until such time as the matter is resolved. It is our submission, in agreement with the Price Club position, that if we amended it to say "any person who is aggrieved by an order"—

**Mr Marchese:** Or "any person aggrieved"?

1140

**Ms Poole:** Actually, Mr Marchese is quite right. It would say "any person aggrieved," and it would be in the judgement of the judge of the Ontario Court (General Division) whether a person is indeed aggrieved. It might stop frivolous and vexatious actions. I would very much hope that the committee and the government would consider this very reasonable amendment.

**The Chair:** Any further discussion on this amendment?

**Mrs Marland:** Obviously, when we're placing the same amendments for the same reasons, it would be redundant for us to repeat the comments that have been made.

**Ms Harrington:** May I comment?

**The Chair:** Yes. Miss Harrington and then Mr Wilson.

**Ms Harrington:** As you know, when we did have the presenters before us, as Ms Poole said, the Price Club made a very interesting and powerful submission to us. On first looking at and hearing what they were asking us for, I was certainly of the opinion that it sounded reasonable to

me because, as Ms Poole pointed out, there can be very frivolous concerns and "considering yourself aggrieved."

I would like to point out that the right to appeal is a very important right in our democratic country, and we have to be very careful in this area. We have certainly looked at this, because I was of the opinion this was a good idea, and I would like Ms Parrish to explain what we are getting into here. I think she can explain very clearly the concerns with regard to changing to "aggrieved" instead of "considers themselves aggrieved."

**Mr Marchese:** I'm sorry, Miss Harrington, because I missed it again.

**Ms Harrington:** I think Miss Parrish will explain it.

**Ms Parrish:** The generic issue really is—I want to be careful. I can't really comment on the rights or wrongs of the case, because I understand there hasn't been a ruling on that case, so I don't know to what extent the courts will deal with the rights and wrongs of the particular case. But in a generic sense, what people are concerned about is that people could appeal this when their interest is pretty remote or where they have some other reason for wishing to be aggravating to the person who has the building permit.

With respect, I don't think this language really helps to deal with that issue. All it says is that people may appeal if they are aggrieved as opposed to if they consider themselves to be aggrieved. The courts are still going to have to make the decision as to whether or not you are aggrieved and whether or not they will give you a remedy. So you still have the problem of disputes about who really is aggrieved, unless you're willing to have sort of a long laundry list of whom you consider to be a possibly aggrieved person, such as adjacent land owners but not ratepayers' groups, for example. So I'm not too sure that this really solves the problem.

Normally, what happens is that when you appeal, a person says, "I am the aggrieved person; I think I am aggrieved," or "I think I am hurt by the issuance of this building permit," and the courts decide whether in fact you are aggrieved and what remedy, if any, you should get.

**Mr Tilson:** Yes, but they don't do that until later.

**Ms Parrish:** Yes, that's true, but it's still all in the same court action. You get into the courtroom and they say: "Are you an aggrieved person? Are you a person who is affected or hurt or injured by the issuance of this building permit?" Then they can decide what they're going to do about it, if anything. So I don't think taking out the words about considering yourself to be aggrieved and just saying you're an aggrieved person makes any difference, because the courts still have to decide whether or not you are in fact aggrieved and what they're going to do about it. You still have the problem, if you consider it to be a problem, of persons bringing applications. What the courts then have to decide is—if people are misusing that application, the courts have to penalize those people with costs.

**Mr Marchese:** I'm tempted to agree with Mrs Poole on this. First of all, as it is written, there is some grammatical concern. I don't know how you can say "any person who considers themselves." Either this is Old English or I am not clear about its grammatical connection here, because



it's "any person who considers himself or herself aggrieved," as opposed to "any person who considers themselves." If that were to pass—I certainly think we should look at that.

**The Chair:** Could I just ask legislative counsel, who could perhaps do what Oxford and Webster cannot.

**Mr Marchese:** There's a point here, I'm sure.

**Ms Lucinda Mifsud:** This is an example of a little creative drafting in trying to be gender-free. The only other choice is to say "himself, herself or itself." We thought it was simpler to try to invent a slightly new word, "themself," which has been done in a few of the books on gender-free drafting now. We agree that it is not the normal grammatical use and we try to avoid it as much as possible, but when you have a reflexive pronoun, himself, herself or itself—because we also have to deal with the "it" situation—we thought this was the lesser of the two evils.

**Ms Poole:** Mr Chairman, I think this solves the problem. Take it all out.

**Mr Marchese:** I must admit that English teachers would use this as an example of what should never be done. But beyond that, I'm tempted to say that eliminating it is clearer than leaving it. I think what you're eliminating by taking the words "who considers themselves" is the possibility of a frivolous case, which is what I believe you were presenting earlier on. In a sense it's a preventive kind of language. If the person is aggrieved or feels aggrieved, that person will take the case forward as part of an appeal—but "aggrieved" will do it—whereas if "consider yourself," it does lend itself to a frivolous case, and I think it's totally redundant and totally unnecessary. I would support its elimination, because I think it makes it easier and clearer.

**Mr Gary Wilson:** Just on the grammar part of it, why couldn't we make the first one plural? In other words, it would read, "persons who consider themselves."

**Ms Mifsud:** We try to draft as much as possible in the singular because it makes it a little easier to read. We've done "person" all the way through, and "persons who consider themselves" would be a plural one.

**Mr Gary Wilson:** Okay.

**Ms Mifsud:** It is always an option, though; that's true. We try to be creative.

**Mr Gary Wilson:** Yes, because I think as it reads now it's pretty abysmal.

Originally, though, I had the question that Ms Parrish has answered about what difference it made to change it the way Ms Poole wants to change it. I don't see that it makes any difference.

**Ms Poole:** I guess to go to that argument, if it doesn't make any difference, why wouldn't you opt for the clearer language? What you really want to do is to protect a person who is aggrieved or persons who are aggrieved. I think if you go back to it, Ms Parrish's argument is that it's all taken care of in the same court action, so it doesn't really matter. But if you look at the preventive action, somebody is going to have a solicitor take a look at this and the solicitor is going to say: "You do fit this category. You 'consider themselves aggrieved'; therefore let's go ahead."

If it said "any person aggrieved," the judge may deem that you are not aggrieved, not that you consider—it's a very subjective thing, whether persons consider themselves aggrieved. Anybody here who spends much time in his or her constituency office will know there are a lot of people out there who believe they are aggrieved by all sorts of strange and wonderful things, but whether they are is another matter. If it clarifies the wording and if it doesn't make any difference from any other vantage point, why wouldn't we clarify it?

One of the things that distressed me somewhat about this situation, both with subsection 25(1) and subsection 27(7), which we also have an amendment to, was when I was talking to the solicitor for the Price Club about these particular sections, she said that the ministry legal counsel refused to meet with her—this was not Ms Parrish; it was another party—because there are, particularly in subsection 25(7), some very good arguments on either side as to why the language should be a certain way.

It seems to me that when you have a matter like this which has been brought up and which is the concern of members of the committee—at least, a number have raised it—it would have been a good idea for the ministry counsel at least to meet with the solicitor and hear some of the arguments before making the judgement call that "We didn't consider it in the consultation. It's coming too late; therefore, we're not going to consider it." I don't like the way that particular part was handled. Again, it wasn't Ms Parrish who was involved, so I don't want anybody glaring at her or giving her Robbie Alomar-type looks or any of that type of stuff going on.

I would perhaps just ask the very simple question to the parliamentary assistant: If the language is clearer and if it doesn't make any difference for any other reason, why not? I really don't think it jeopardizes anybody's right of appeal, if he or she has a genuine right to appeal.

1150

**Ms Harrington:** First of all, let me just comment on your saying that the Price Club could not meet with our legal person. This may be because the Price Club case was directly before the courts at that time. That may be the reason we would hesitate.

**Ms Poole:** By the way, it was not the reason he gave. It was, he said: "No, I don't see any reason for discussing it further because I don't see any merit in it. We don't agree with the language." It was not that it was before the courts, which is, I think, quite a relevant position to put forward.

**Ms Harrington:** Ms Parrish, did you want to comment?

**Ms Parrish:** I can't comment on the issue, although I will raise it with my staff. We have always tried to take the policy, except in a situation where a case is before the court, that we do try to meet with anybody who wants to meet with us.

I would point out that this language, as inelegant as it might be considered to be, is in the current act, and there are cases in this area under the old section, section 51.

The concern is that if you change the language, you lose the case law. The case law says, the courts say, "We



have considered who a person who considers himself to be aggrieved is, and we have decided that they are adjacent land owners or next-door land owners but are not ratepayers' groups," for example. So the courts have actually interpreted these words.

As I said before, I don't think it's a big difference if you change the language. The courts will still have to decide whether or not you are in fact aggrieved. But you will lose the case law which has already decided, for example, that a ratepayer group probably can't bring itself within this language.

So that's the risk: When you change the language, you lose the case law and the courts have to decide all over again what this could possibly mean. It's really a question of judgement. I personally don't think it makes a lot of difference. You do lose some of your old case law. I'm more concerned about some of the amendments that come along later in this regard.

**Ms Harrington:** I just want to reiterate that point that Ms Parrish just made, because I think it is probably one of the most important; that is, if we do change the language now, it could jeopardize the case law history that we rely on.

I want to go further and say that what we're trying to do is eliminate frivolous cases, but there is a real danger here of eliminating some serious appeals as well. This change would likely prevent anyone who didn't have a direct financial or legal interest from appealing the issuing of a permit. If we say they have to be aggrieved, I'm not a lawyer, I can't interpret this, but it may mean that it could have a direct financial interest or have a direct legal interest in the proceedings.

This narrowing of opportunity of the third-party appeals should not be taken lightly. It is something we have to look into a lot more broadly as to what the consequences would be. It could prevent appeals by citizens concerned on environmental or other grounds. We would want very extensive consultation before considering such a change, and there have been serious concerns about the implications of this. I do understand what Price Club was saying; I have the same feelings the opposition members had at that time. But we have looked into it, and those two cautions come up that we don't want to change it with regard to the case law situation. The wording though, as Ms Parrish said, is inelegant; it is still important. I hope that's of some help.

**Mr Tilson:** It's for that very reason that I think both opposition parties have put an amendment forward. The two lawyers very elegantly put forward their concerns and they want to change the case law. They want to change the law; the law isn't working.

Margaret Harrington may personally feel that she's aggrieved in this committee, but the rest of the committee members may not feel that she's aggrieved, and a judge deciding that is the issue. Whether she is aggrieved and whether she thinks she aggrieved may be two different matters, and that's the intent of the amendment. So as the two solicitors set forth, all someone has to do is to come

and say that they are personally aggrieved. The words say, "who consider themselves aggrieved."

**Ms Harrington:** Just to comment on that, the judge will decide whether they are aggrieved or not. Secondly, you can't say that it has not worked up to now. There have been very few cases, I would suggest, that are frivolous.

**Mr Tilson:** You don't understand. There's quite a distinction between a judge deciding whether a person is aggrieved and whether that person considers himself aggrieved. There's quite a major difference. That's what the solicitors were trying to put forward.

You could have someone who has a competitor—which is what it's got, and I don't think it's appropriate for this committee to comment on that case because it's still before the courts, I gather—but that type of thing is an example where a competitor who has no direct interest, none whatsoever, can say, "We consider ourselves aggrieved."

Then all the judge had to decide was whether they thought themselves aggrieved—not whether they were aggrieved, but whether they thought themselves aggrieved. That's all the judge has to decide. The judge isn't deciding whether that person was aggrieved. The judge is deciding, under the current law and under this bill, whether they thought themselves aggrieved. That's the distinction and that's the reason for the amendment; quite a major difference between what the judge should be deciding and what this section says the judge is going to be deciding.

**Ms Harrington:** Just to comment very briefly, this wording, "who considers himself aggrieved," has been in the Building Code Act for a long time—

**Mr Tilson:** I'm quite aware of that.

**Ms Harrington:** —and there have not been huge numbers of problems with regard to frivolous appeals. If this is going to happen more and more with regard to competition and these types of things, then it will be, but at this point in time we cannot throw out all of the rights of people to appeal. We have to be careful.

**Mr Tilson:** I must respond to that, because that is the very reason why the amendment is being made. The two opposition parties feel that the direction to the court to make a decision is that the court must decide whether someone was aggrieved, not whether he or she considers himself or herself aggrieved. That's the distinction.

**The Chair:** I have Mr Wilson, who has just gone out the door, who wanted to speak. I wonder if Mr Wilson still wants to speak. Would Mr Wilson want to speak? Just before Mr Wilson comments, it is, as the Speaker always says, almost 12 of the clock, at which point we're supposed to rise. So I will hear Mr Wilson and then I think we'll have to move to deal with the question at hand.

**Mr Gary Wilson:** I just want to say I did find the arguments of Ms Harrington and the ministry lawyer, Colleen, compelling and I think because of the case law it should stand the way it is now.

**Mr Marchese:** If it's all right with the parliamentary assistant, given the hour, could we stand it down as well so that this is the first item we deal with after lunch?

**The Chair:** Is that agreeable? We will stand it down.

Could I just remind all honourable members that we still have a considerable amount of material to go through. I guess we're about halfway through, but there are a number of amendments. We were authorized to sit yesterday and today. Today ends shortly before midnight. I'm not sure that's really what everybody is necessarily intending to do, but I wonder if I could perhaps meet briefly with the parliamentary assistant and the two critics and we might just look at how we would like to proceed this afternoon,

just so everybody can organize his or her life, himself or themselves, according to any particular order.

**Mrs O'Neill:** Will you add my name to the speaking list on this item when we pick it up again, please?

**The Chair:** Fine. Therefore, we will adjourn, and can we start at 2 o'clock sharp? Okay? We stand adjourned.

The committee recessed at 1202.

## AFTERNOON SITTING

The committee resumed at 1407.

**The Chair:** We'll begin the afternoon session of the standing committee on social development. Again we're dealing with Bill 112, An act to revise the Building Code Act. We're on clause-by-clause.

We have a number of amendments to deal with, but in order to expedite the process I thought we could first of all deal with all those sections of the bill where there are no amendments. If we could go through those with the assistance of the clerk, I'll put the question on those sections for which there are no amendments. We will then go back to deal with the two that we stayed over from this morning and deal with the one that we stayed at noon as well,

Sections 26 and 27 agreed to.

**The Chair:** There are some amendments to section 28, so we'll skip that.

Sections 30 to 33, inclusive, agreed to.

**The Chair:** Section 34 seems to be a popular one.

Sections 36 to 38, inclusive, agreed to.

Sections 40 and 41 agreed to.

Sections 43 and 44 agreed to.

**The Chair:** Therein endeth the reading of the first lesson.

**Mr Lessard:** Shall the bill carry?

**The Chair:** Not yet. We will now go back to clause 7(g). I just note again that all the sections for which there are no amendments have now been carried. We've just done that, so we will only be dealing then with the amendments that are in the integrated copy we have in front of us. We will then go back to clause 7(g), if that's appropriate.

**Ms Harrington:** This section, as you remember, dealt with the residential building where we were concerned with having as-built plans filed. What we had done yesterday was ask Mr Wildish to contact the Toronto Area Chief Building Officials Committee to see how it felt about the Liberal amendment this morning.

I would like to ask Mr Wildish to report their feedback to him, and I would suggest to the committee right at this point that I'd like it to listen very carefully and judge for itself and make its decision, because the government is willing and prepared to go with the decision of the committee as a whole, whether or not you agree or disagree with Mr Wildish's report. I would like to call on Mr Wildish to give us some feedback.

**Mr Wildish:** I've checked with some of our building officials, in particular people who are involved in the building officials association who have made input all along the way on the preparation of this bill.

As-constructed plans is a provision, as you know, that was in the old act and has been carried over, with modifications, into the new act, into the new bill at least.

There were some changes made and I'll just refer to a couple of those, if I may. The current bill calls for an identification in the regulations of such class or classes of buildings as prescribed by the regulations. Those are the

places in which a municipality may make bylaws or ask for as-constructed plans, and no classes of buildings have ever been prescribed in the regulations. Thus this provision has been inoperative.

Municipal officials, as I mentioned yesterday, do not want whole classes of buildings to be prescribed. They don't have the interest or the staff to review these drawings, store them and so on. They do feel, however, that as-constructed plans for certain individual buildings, types of buildings or parts of buildings would be useful.

I'll give you a couple of indications of what's involved here. As a building is going along, if there are substantial changes in it, if it is a large building, there's an architect involved, engineers involved, and drawings are submitted with the changes on. They go to the municipality and there's an approval process and plans are filed, so the municipality has an excellent record of what happens in a large building.

Small buildings, and that means mostly housing, for example, are much less rigorous in the way they're handled. The drawings are often not modified within the buildings department. They are marked up on the site, usually on the contractor's working drawings. The building official comes along, initials the working drawings and that's the authority the contractor has to do his job. They may never get back into the drawings that are filed in the municipality.

Because of paper storage, municipalities now keep only as-constructed plans, if you call them that, or plans for homes, for residences for about a year. Then they're gone. So this is not a big record that's involved in this thing.

There are certain things a municipality does want to know about a home that goes up. I'm talking about small buildings, a home that goes up. They like to know where the sewer line comes in, where it crosses the property line. They like to know where the water service comes, where that crosses the property line. Some of them will go so far as to send their own inspector out to make that measurement and record it on their plans. Where the line enters the building, of course, they can always find out later, but the other end, where it crosses the property line, they can't, so someone will do that.

Building officials in general, almost in every case, can't tell if a building is properly located on a site or not. Only a surveyor can do that by taking measurements. So to check on the zoning, sometimes building officials would like to have, and often do have, requirements that a survey be taken that indicates how far the setback actually was and how high the building actually was so they can confirm that the zoning was complied with.

Another situation that comes up of course is when someone builds without a permit, and they might like to get, instead of as-constructed plans, as the building was actually built. A lot of the problems with knowing what was actually built comes up when there are a lot of deviations from plan. These deviations from plan occur in small



buildings mostly, not in big buildings that are well planned by architects and engineers in the first place. But often, as someone was mentioning yesterday, when a custom-built home is going up, they keep shifting walls, doors and windows around as they try to finish it. So when there's been a lot of deviation from plan, that's the time in which a building official might say, "Give us a set of as-constructed plans to show how this thing finally turned out."

**Mr Tilson:** On that point, there's no question that the regulations or the practice would be, as you indicated yesterday, that those would be marked up or handwritten, amended plans. You wouldn't have to prepare another set of plans.

**Mr Wildish:** If we're talking just about homes or residences—

**Mr Tilson:** That's right. We're talking strictly on the Liberal amendment.

**Mr Wildish:** In general, municipalities, because of costs and other reasons, don't go through the formality of maintaining a very detailed set of plans on file, showing every little deviation in a house. It's just not worth it to anybody. If someone moves a non-load-bearing wall a foot over, it's usually just approved on the site and that's all there is to it. They mark it not on the permit drawings but on the set of drawings the builder is using in his shed. He usually doesn't like to touch the permit drawings because they are official documents.

Sometimes in a tract where they are building 20 homes from the one set of plans, the only plan on file in the municipality is for the model home. If people have individual little variations in their homes, they never get into a file in the municipality. As I mentioned, they only stay in the municipality a year and they're gone anyway. Homes don't get that treatment you might expect for large buildings.

To get to the point of which ones are most important to municipal officials to get information on sometimes, they are the homes, rather than the big buildings where there are architects and engineers involved, where there are site visits as the job progresses and there's lots of contact. But someone building a small, custom-built home, perhaps on his own, that's the kind of person who forgets or neglects to call for inspections. Things go along without being looked at. When the inspector arrives, it's not supervised on the job. No one's there and of course there's no architect or engineer dropping in; it's kind of loose. Those are the areas where they'd like to be able to call for as-constructed plans.

In summary, odd situations, once in a while, that's where they would like to be able to call for as-constructed plans: usually, residential, small-building types. Big buildings, it's formal; there are architects and engineers and there's no problem in getting the information they want.

**Ms Harrington:** To summarize, my understanding is that the building officials seem to desire that in the odd case they have the opportunity to ask for as-constructed plans.

Now I'll turn it over to both opposition parties for comments and their decisions as to how they'd like to deal with this.

**Ms Poole:** I thank Mr Wildish for securing that explanation from TACBOC. The concern I have, which I mentioned yesterday, is that when you formulate legislation it should take into account how it may be used, not how at this particular point in time certain people may intend for it to be used. In other words, will it be abused as opposed to being used as was originally intended?

It was one of the reasons I supported the Ontario Home Builders' Association in its desire to have an amendment in this regard, because I am concerned that in some municipalities, not necessarily the larger ones which really have their plates full but some of the smaller municipalities, this may be a way to generate new revenues with new fees they would charge for filing as-built plans. It might not come to fruition, but the bottom line is you want the legislation to be able to withstand the test of time so that there can be uniformity, so that it isn't taken out of context and isn't prescribed for whole classes of buildings where municipalities require, for every home to be built, the filing of a second set of plans in an as-built state.

Maybe, naturally enough given the fact that I moved the motion, my tendency would be to still support exempting the residential buildings.

**Mr Tilson:** I must confess that at the outset I was supportive of the amendment, but Mr Wildish is right, I think, in practice, particularly in the residential sector. Most building inspectors I've ever come across certainly are reasonable and don't require the fears I was initially suggesting. So unless there is some further debate, I would be opposing the amendment.

1420

**The Chair:** Any further discussion?

**Ms Harrington:** Mr Wildish had one further comment to make.

**Mr Wildish:** Two comments, if I may, in response to what you just said. A municipality, I think, would be very reluctant to ever pass a blanket kind of a thing that costs builders money for every house, because of course it's a very competitive area and they don't want to scare off builders coming to their municipality. If every house costs an extra \$500, say, they would shy away from that, I think, very quickly.

What I wanted to mention was that if you look at clause 7(g), the last part of clause 7(g) refers to conditions that would be laid down in the regulations. Those conditions would be things to protect this operation. I think perhaps I could allay some of your fears here. Those conditions would be things like thou shalt not ask for gold plating leaf on linen, thou shalt not ask for drawings that are more detailed than the original drawings, thou shalt not ask for these drawings within two days—reasonable things that would constrain—or thou shalt not ask for them for warehouses, or whatever. So constraints would be placed in there.

**The Chair:** It has become a very biblical afternoon.

**Ms Poole:** So thou shalt only use this section where absolutely necessary, not as a general rule.

**The Chair:** And thou shalt now vote. We're going to deal then with clause 7(g) on the Liberal amendment.

Shall the Liberal amendment carry? Those opposed? Okay. I see another member here. If that member could cast his vote from his seat, I could then count it. If he wants to tell me what he's going to do on the way, I can—

**Mr Lessard:** I'm voting with Gary.

**The Chair:** All right. He's voting with Gary. The Liberal amendment then does not carry.

Motion negatived.

**Ms Poole:** Mr Chair, just one question about that particular vote. With Mr Lessard coming in late to vote, does that mean the Conservative vote on the Ontario Home Builders' Association amendment is what made it fail? Is that correct?

**The Chair:** I wouldn't want to express any opinion on that.

Now, shall section 7 carry?

Section 7 agreed to.

**The Chair:** Okay. We will go on to subsection 17(8). This was the Progressive Conservative amendment. This was the interesting question of when is "final and binding" really final and binding. Over the lunch hour Ms Parrish, on our behalf, has sought out the ultimate final and binding conclusion to that. We were looking at the question of the specific court case and I wonder, Ms Parrish, if there are some further thoughts you can add, and then Mr Tilson, if you want to raise some questions as well.

**Ms Parrish:** Mr Beer, I did go back and look at this case. Since it's a fairly short case, I'll provide a copy of it to members of the committee.

As far as I can tell, this is a tree-planting case or a dead tree case in which there was an order made to remove a dead tree. The issue that was before the court was whether or not there was an appeal to the Court of Appeal from a final and binding decision of the district court judge. What they attempted to do was read together the Planning Act and the Courts of Justice Act to find out whether or not there was an appeal to the Court of Appeal from the decision of the district court.

With respect, I cannot see anything in this decision that would have changed what I said this morning. The court, for example, discusses the difference between "final" and "binding" and other clauses such as "final" and "conclusive," and goes on and on about that. It goes on to say, in general, "Unless the context indicates otherwise, it is generally accepted that where a legislative provision provides that an order is 'final' there is no appeal from that order," and then they go on to talk about what that means.

Then the courts go on to say what the legislative intent was in this particular case, whether there was intended to be a further appeal to the Court of Appeal. This really deals with what the Courts of Justice Act said. As many of you may know, the Courts of Justice Act will distinguish between final decisions of the courts and decisions of the

courts on interlocutory matters which are not final. This is a sort of technical legal discussion.

I don't think this court tells you very much about what "binding" means. What it does say is that when you read a statute and you decide whether there's going to be a further appeal to the Court of Appeal, you have to look at the legislative intent and so on. In the end, I don't think this case really tells you very much about what "binding" means. I think it does tell you about when a decision is final.

I'm not sure I agree that adding the word "binding" really tells you that much; that this case stands for that. Certainly, members of the committee can read the case and decide otherwise, but I don't see anything in this case that would say that if it says "final" only, you'd have an appeal, and if it says "final and binding," you would not have an appeal. I think the case says you have to interpret the entire statute and the statutory interpretation and look at the provisions of the statute. I don't think it tells you anything about "binding" per se.

**The Chair:** Thank you. Just before opening discussion on this, I want to note there is an understanding that we will try to complete our hearings by approximately 4 o'clock.

There was some discussion of this specific item. I want to allow Mr Tilson to comment and ask questions. If there are some new points that people feel need to be made, I will obviously recognize those, but I think we should be mindful of other issues we need to deal with and of the time.

**Mr Tilson:** I would concur, and I thank you for bringing this decision to the committee, because it certainly does indicate that perhaps the concerns of the delegation aren't as strong as they'd appear. So I have no further comments.

**The Chair:** We will then vote on the Conservative—

**Mr Tilson:** I'm prepared to withdraw the amendment.

**The Chair:** Okay, the amendment is withdrawn. We will then vote on section 17, as amended. Remember, there was a previous amendment. Shall section 17, as amended, carry?

Section 17, as amended, agreed to.

**Ms Harrington:** I want to thank Mr Tilson. I want to thank you for your help.

Section 25:

**The Chair:** We will then move back to section 25. We were dealing there with an issue that not only affected Her Majesty's grammar but also another fundamental point. I know Ms O'Neill had a comment she wanted to make, and then if there's somebody who can tell the Chair whether an agreement has been reached on this, the Chair would be pleased to hear that from whomever. But first of all, Ms O'Neill, I believe you had a comment you wanted to make on this.

**Mrs O'Neill:** Yes. I'm really going back to one of the parliamentary assistant's remarks. She felt that everything now would be given an opportunity to come before and there wouldn't be judgement calls or—what should I



say?—interpretations made before we got to the court stage. She did mention environmental issues and that everyone should have that real right and liberty, even if it was only within their own minds that this was the case.

I just wanted to make a comment that I find that extremely contradictory to the discussion we had yesterday afternoon on clause 15(2)(c), where I was stating some of the same things in reference to safety, which I think is a lot more important on a scale of values. Anyway, what I'm saying is there will still be contradictions in the act, and withdrawing because we haven't got definitions, in my mind, is very similar here, because we sure don't have definitions; we've got a bit of case law. Some people around this table think the case law is weak. I happen to be one of those. I just find that the reasons given this morning by the parliamentary assistant are not consistent with her statement yesterday.

1430

**The Chair:** Do we now want to move to vote on subsection 25(1), the Liberal amendment, or has there been some discussion?

**Mr Drummond White (Durham Centre):** Sufficient discussion, yes.

**The Chair:** It was stayed by a member of the government caucus, so that was why I'm—

**Ms Poole:** That was actually my question, Mr Chair. The member of the government caucus who indeed showed support for this particular amendment is not here this afternoon, contrary to what he stated as his intention of being here to vote in favour. I wonder if perhaps Mr Marchese is returning later in the afternoon, and if so, we could put this over till he returns.

**Mr White:** No, I don't think so.

**Mr George Mammoliti (Yorkview):** I'm here in his place.

**Mrs O'Neill:** They brought in the jackboots this afternoon. The jackboots are here.

Interjections.

**The Chair:** I would now put the question on the Liberal amendment to—sorry.

**Ms Poole:** I want Mr Marchese to be here, because he's going to vote for it with us.

**The Chair:** Mr Marchese's whereabouts are—

**Mr Mammoliti:** Mammoliti, Marchese; what's the difference?

**Ms Poole:** Oh, you're going to vote with us?

**Mrs O'Neill:** Quite a difference, George.

**Mr Hans Daigeler (Nepean):** Most of the time that's true.

**The Chair:** Order, please. The parliamentary assistant.

**Ms Harrington:** I was hoping that Mr Marchese would be here. I thought he would be.

I did want to clarify what I said this morning, and this is what I said, word for word:

"This change would likely prevent anyone who didn't have a direct financial or legal interest from appealing the issuing of a permit....This narrowing of opportunity of the

third-party appeals should not be taken lightly....It could prevent appeals by citizens concerned on environmental or other grounds. We would want very extensive consultation before considering such a change." One last line here, "We have very serious concerns about the implications of narrowing the grounds for appeal."

**The Chair:** Thank you. Shall the Liberal amendment to subsection 25(1) carry? Opposed?

Motion negatived.

**The Chair:** We would then move to a second Liberal amendment, subsection 25(7). Does everybody have that in their package? There are some who are missing, but does everybody have 25(7), the Liberal amendment? Okay.

Ms Poole moves that subsection 25(7) of the bill be struck out and the following substituted:

"Order, decision remains in effect

"(7) Where the order or decision appealed from is the issuance of a building permit, that building permit remains in effect despite the appeal unless stayed by order of a judge.

"Stay pending appeal

"(8) Upon application without notice, a judge may order that the order or decision appealed from be stayed pending the appeal on such terms as are just if, in his or her opinion, the stay is necessary to prevent the appeal from being meaningless and would not result in danger to the public.

"Security for stay

"(9) If the judge orders a stay, he or she may also order that the person who applied for the stay post appropriate security with the court."

Any comments, Ms Poole?

**Ms Poole:** Yes, Mr Chair. This again is an amendment which stemmed from the situation brought forward by the Price Club where it was alleged that the competitors had launched an appeal, not with cause but simply to delay the competition from opening up for some lengthy period. The concern the Price Club brought forward was that the way the legislation is framed right now, they could not continue with the construction until such time as the appeal was heard. They felt that if the wording were reversed, it would continue unless the judge stated otherwise. If the judge felt that, in his or her opinion, it was necessary to stay the construction and stay the action or else the appeal would be meaningless, then in that case obviously there would be a stay.

So this is a lot of legalese in this particular one. It was obviously drafted by the lawyers in legislative counsel, as opposed to by yours truly. But I think the intent of it, as was the previous motion, was to ensure that there is fair play, which I believe has long been one of the precepts of British parliamentary tradition. If it is to a competitor's advantage to launch an appeal that may not be justified and thus accomplish his purpose in delaying the construction and delaying the competition in being realized, then I think perhaps it might be a good idea to try to rectify this in the legislation so that in those isolated incidents where it might occur, it does not occur.



**Mrs Marland:** A point of procedure, Mr Chair: You know, we have a motion for the same section.

**The Chair:** On subsection 25(7)? I have one on 25(1) which was identical.

**Mrs Marland:** Yes. Subsection 25(1) we didn't deal with because it was the same as the Liberal one, but we also have one on 25(7).

**The Chair:** Okay. I'm sorry, I don't have that, but we'll just arrange to get that.

**Mrs Marland:** I'm sorry if you don't have that. It's in our package.

**The Chair:** Can you just wait one moment?

**Mrs Marland:** It's probably about the same, anyway.

**Mr Tilson:** I think what happened is that it was left out of the consolidated package but it was in the initial package.

**The Chair:** Okay. It's similar to 25(7).

**Mr Tilson:** It's very similar.

**Mrs Marland:** I think it's similar, but I just want to check that.

**The Chair:** We'll get some copies made. Can we proceed in our discussion of the Liberal amendment?

**Mrs Marland:** Yes, certainly.

**Mr Tilson:** We support the amendment made. It is similar to the amendment we are proposing. I will say it's regrettable that the government took the position it did with the last amendment by not allowing the amendment. I understand the rationale behind it. They're afraid, I suppose, for unknown matters such as "environmental situations," I think were your words—I'm speaking to Ms Harrington's comments, of course—and there may be other examples of a general public nature.

However, having said that, there is no question that it leaves it open to competitors, to individuals who are making an application to simply hold up proceedings, as Ms Poole has stated. It may not be for matters of a general public nature; it may be nothing compared to what you've anticipated. It may be simply a blatant effort to delay the proceedings so that the application, the whole process and the construction of the building will be delayed, and that would be regrettable.

I think if there is a frivolous application, it becomes quite blatant that there's a frivolous application. Having security deposited for costs would give some sort of protection and might in fact discourage competitors from making frivolous applications, because the costs in these things can be astounding. That's another reason, of course, which was emphasized by the solicitors. I mean, here they are; not only is their whole project being delayed but they're being put to tremendous cost.

Again, it's unfortunate that we're dealing with a matter that is currently before the courts, and I don't think this committee should be. But at the same time, I can foresee a hypothetical situation where a competitor could appeal a matter and the matter's quite frivolous. It may not have anything to do with what you've anticipated, so I think

that's one of the major reasons why we would support the proposed amendment.

**Ms Harrington:** At this point I'd like to ask Ms Parrish to give us some background with regard to the effect of this amendment.

1440

**Ms Parrish:** My staff member Jeff Levitt, who unfortunately can't be with us today for personal reasons, did phone a number of building officials and building departments to ascertain their viewpoints. I understand they are strongly in favour of the stay. The reason is that they don't want buildings built that subsequently, as a result of a court appeal, have to be torn down.

Their concern is this: What is going to happen in the case—you know, you have some concern about rare cases in which the system might possibly be misused, but there are other cases where there is a very legitimate appeal by, say, an adjacent property owner, and while this appeal process goes on the building starts because there's no stay, trees are ripped down and building goes on and so on and so forth. You get partway through this building—it's partway up, partway down—and the court decides there was an error and the court says a building permit was issued that should not have been issued for whatever reason. You've now got this half-built building which is a problem for the municipality. There may be adequate costs for ripping it down or there may not be.

**Mr Tilson:** We had a big one a number of years ago over in Leaside, or wherever it was.

**Ms Parrish:** The famous Bayview ghost.

**Mr Tilson:** Bayview, yes.

**Ms Parrish:** I think they are very concerned about buildings that get partway up and then they're in limbo. They're also concerned that because people start building, there's sort of a suggestion: "Well, they've spent all this money, they've started building. Surely you courts shouldn't overrule them." There's a concern that if you allow people to go ahead and build pending these appeals, there is the risk that would happen. I understand that building officials were contacted and they preferred the stay for reasons of public safety and so on.

If you have an appeal, it doesn't matter what system you have; there's always some risk that somebody will use the court system inappropriately. But the courts have tools to deal with that. They can award costs; they can award costs on a solicitor and on their own solicitor's basis. If the courts are really of the view that there is no validity at all, no ground for appeal, and that this has been taken entirely for an inappropriate reason, there are remedies. My understanding is that the building officials preferred the stay because they were greatly worried about half-built buildings and the rights of people who were legitimately appealing being essentially taken away. So there are two sides to this story.

**Mr Tilson:** On that point, I understand what you're saying. I don't necessarily agree with it, because the other side of the coin could be that a building is up or partially up and a competitor puts forward a frivolous claim and it's

stopped. The whole process stops and the building starts to deteriorate, they lose their investment—all kinds of terrible things can happen. Yes, there can be compensation and costs, but that's about it. They're out of luck. What do we do in those situations?

**Ms Parrish:** Is it all right for me to respond?

**Mr Tilson:** I'm sorry, Mr Chairman. I'm asking a question to Ms Parrish.

**The Chair:** Yes, please.

**Ms Parrish:** I guess the one comment I would make is on the appeal period. You must want your appeal within 20 days, so it's not as if you have to wait for months wondering whether there's an appeal. You simply wait for 20 days and at that time you know whether there's an appeal or not. It is a common practice among builders to wait for the appeal period, the same as in zoning, where the people wait for the 30-day appeal period before they build.

**Mr Tilson:** But, as you know, these matters can be held up interminably. They can go on and on and people have their investments lined up. Well, if it's stalled—

**Mrs Marland:** Financing.

**Mr Tilson:** That's what I mean. The financing is lined up and it just disappears. I guess I sound like a sore loser on that previous amendment, but it is tied in and that's why this second amendment is quite reasonable, notwithstanding Ms Harrington's comments of leaving the previous section in for matters of public nature or public benefit. But when you get beyond that, there are going to be some innocent people who are going to be hurt by a competitor who simply wants to put his thumb on someone advancing. That's why I think, in conclusion, that this is a reasonable amendment.

**The Chair:** I will now put the Liberal motion, unless there is anything further. We'll vote then on the Liberal motion to subsection 25(7). Shall the Liberal amendment to subsection 25(7) carry? Opposed?

Motion negatived.

**The Chair:** We have a Conservative motion on the same subsection 25(7).

**Mrs Marland:** I think the intention of our motion is the same and the points of our concerns are on record, so I would suggest this amendment is now redundant.

**The Chair:** I will call section 25.

**Mrs Marland:** I just have one question. Did we discuss the 20-day appeal period today on section 25?

**The Chair:** There was reference in our discussion on 25(1) and (7). I don't know that it was discussed in great detail.

**Mrs Marland:** When the deputations were here, I think both the Liberals and ourselves agreed that the 20-day period was a concern, so I guess we've both missed making an amendment to address that concern.

**The Chair:** But your comments are noted by Hansard.

**Mrs Marland:** I guess we'll have to wait till we clean up the rest of this bill on the next go-round.

**The Chair:** Shall section 25 carry?

Section 25 agreed to.

**The Chair:** We have already carried 26 and 27.

Section 28:

**The Chair:** We will then move to section 28. There is a government motion 28(4)(b).

Ms Harrington moves that clause 28(4)(b) of the bill be amended by striking out "technique" in the fourth line and substituting "system."

**Ms Harrington:** The bill makes several references to the concept of "materials, systems and building designs." Unfortunately, the bill does not always use exactly identical words each time it refers to this concept. It would avoid possible confusion if the words used were identical.

**The Chair:** Any comments, thoughts, observations? If not, shall the government amendment 28(4)(b) carry?

Motion agreed to.

**The Chair:** Government motion on 28(5).

Ms Harrington moves that subsection 28(5) of the bill be amended by striking out "technique or" in the second line and substituting "system or building."

**Ms Harrington:** Basically, the same reasoning.

**Mrs Marland:** I just have to ask, why are we adding "building" in 28(5)? Is it different wording?

**The Chair:** I'm sorry, Ms Marland, in section 25 or 28(5)?

**Mrs Marland:** In subsection 28(5), the amendment that's in front of us now, we're adding "system or building."

**The Chair:** Yes.

**Mrs Marland:** In the previous amendment we just added "system." I suppose it all makes eminent good sense.

**The Chair:** One always hopes.

**Ms Harrington:** What we are trying to use in all instances is the same phrase, which is "materials, systems and building designs." That's why in some cases we're deleting or adding to get to that same phrase.

**Mrs Marland:** Thank you.

**The Chair:** Shall the government amendment to subsection 28(5) carry?

Motion agreed to.

Section 28, as amended, agreed to.

1450

Section 29:

**The Chair:** Ms Harrington moves that section 29 of the bill be amended by:

(a) striking out "products, systems or services" in the fourth line of subsection (1) and substituting "systems or building designs";

(b) striking out "product, system or service" in the third and fourth lines of subsection (5) and substituting "system or building design";

(c) striking out "product, system or service" in the second line of subsection (6) and substituting "system or building design"; and

(d) striking out "product, system or service" in the fourth and fifth lines and in the eighth line of subsection



(8) and substituting "system or building design" in each case.

Motion agreed to.

**The Chair:** Ms Harrington moves that subsection 29(4) of the bill be amended by striking out "A ruling" in the first line and substituting "Notice of a ruling."

**Ms Harrington:** The reason for this amendment is that the minister's rulings made under section 29 of Bill 112 may be too numerous and too lengthy to include in their entirety in the Ontario Gazette. Publication of notice of the rulings should sufficiently inform the public of their issuance and is more in keeping with the manner in which the Ontario Gazette is used for this type of purpose. It is also to be noted that subsection 29(4) of Bill 112 provides that the rulings are to be made available on request to members of the public.

**Mrs Marland:** Without a fee and without going through the freedom of information?

**Ms Harrington:** The answer is yes.

Motion agreed to.

Section 29, as amended, agreed to.

Section 34.

**The Chair:** We will then move to section 34. Now I just want to pause here. As members will see, there are a number of amendments to this particular section, and indeed the clerk is pleased to say that there are even more, so these are about to be circulated. Let us begin then with the first motion, which is a government motion.

Ms Harrington moves that subsection 34(1) of the bill be amended by striking out the words "for the purpose of establishing a building code" in the second and third lines.

**Ms Harrington:** As a consequence of adding to the bill the proposed subsection 34(5), the amendment to subsection 34(1) is required in order to remove the bill's current reference to the building code's purpose.

**Ms Poole:** I am just wondering if we could have a bit more of an explanation as to why the government is removing the bill's current reference to the building code's purpose.

**Ms Harrington:** Okay. What this section says is that the purpose is to establish a building code, and what we are putting in in subsection 34(5) is the purpose which you will see or have seen which establishes that it's a little more than establishing a building code.

**Mrs Marland:** Now I see "governing the design of buildings." Is that it?

**Ms Harrington:** Shall I read this into the record now?

**The Chair:** Sure.

**Ms Harrington:** It says, "The purpose of the regulations made under this section is to establish standards for public health and safety, fire protection, structural sufficiency, accessibility, conservation and environmental integrity with respect to buildings."

**Mrs Marland:** Where are you reading?

**Ms Harrington:** This is subsection 34(5).

**The Chair:** If you note in the government motion and the "Reason for amendment," it refers to 34(5), which is

the one that Ms Harrington just read. It's further on in the booklet, or at least it ought to be.

**Mrs Marland:** Oh, it's another amendment. Thank you. I'm looking in the bill.

**Mrs O'Neill:** Sorry, Mr Chairman, do you want to guide us as to where we are?

**The Chair:** We are dealing with the first government amendment, 34(1). In the explanation under "Reason for amendment" it refers to the proposed 34(5).

**Mrs O'Neill:** That's an addition to the act?

**The Chair:** Yes, and it appears about 10 pages along. Mrs Marland.

**Mrs Marland:** Well, this is some amendment.

**The Chair:** Excuse me, Mrs Marland, are you speaking to 34(1) or 34(5)?

**Mrs Marland:** It's very difficult, isn't it, to speak about one without the other. To be completely in line, I guess I have to speak to 34(1). Oh, dear. Boy, it has—

**Mr Tilson:** We'll never see this for another 25 years, this subsection (5).

**Mrs Marland:** I think it's pedantic at best, 34(1). If you're concerned about wording that says "for the purpose of establishing a building code," while at the back of your mind you're going to come up with 34(5), which is going to define what regulations under this section are going to establish, obviously I'm going to have a lot of concerns about 34(5) and what it establishes if it pertains to existing buildings, which we haven't discussed yet.

I think that if we weren't being quite so picayune, you could leave it as a building code and still have the building code cover those areas you're going to regulate anyway, which is your wish; not my wish on existing buildings, but your wish. If you're going to cover "standards for public health and safety, fire protection, structural sufficiency, accessibility, conservation and environmental integrity with respect to buildings," what's wrong with leaving those areas defined under something known as a building code? I don't know why you're concerned about the words "for the purpose of establishing a building code."

**Ms Harrington:** There's still, obviously, a building code. It is just that the word "purpose" is in there, and it is confusing to have the purpose here as well as in another section. Maybe I could ask Mr Wildish to explain.

**Mr Wildish:** The decision was made to put an expanded statement of purpose into the bill. There were many places where it could be located, and we were advised by legislative counsel that you could not have two references to purpose, that there could only be one. One of the considerations was indeed to put it in 34(1), but structurally it seemed to be far better to put it where you see it located now, so we have one location for purpose in the expanded form and it's at 34(5). Having made that location for a purpose statement, we had to remove the other reference to purpose.

1500

**Mrs Marland:** So it's all legislative counsel's fault.

**Mr Wildish:** We take their advice on all these matters.



**Mrs Marland:** It's just that we have to ask why.

**Mr Tilson:** Our question to Mr Wildish or the legislative counsel is difficult because we have to look at subsection (5). Ironically, this (5) is more restrictive. The building code could deal with a whole range of things, which with all due respect is probably what you intended to do, but with (5) you've made it very restrictive. I'm not speaking in favour of (5), but that's what you have done.

**Ms Harrington:** In my opening statement yesterday, I did refer to Mrs Marland's concerns about the broad-ranging open-endedness. As you were saying, there is some restriction here.

**Ms Poole:** This is the Margaret Marland memorial amendment.

**Mr Tilson:** So it's Margaret's fault.

**Ms Poole:** This is the only one you can claim credit for in this entire package, Margaret. Grab it.

**The Chair:** At the risk of not continuing to try to find other people who are at fault, I simply want to note that it is 3 o'clock and it seems that the arguments have been set forward. I wonder if there are any other new points to be made and whether we might vote on the first government motion. Shall the government amendment to subsection 34(1) carry?

Motion agreed to.

**The Chair:** Ms Harrington moves that paragraph 2 of subsection 34(1) of the bill be struck out and the following substituted:

"2. prescribing the conditions under which as-constructed plans may be required by a chief building official under clause 7(g)."

**Ms Harrington:** The reason for the amendment is that the specific authority to define in the building code the term "as-constructed plans" is unnecessary in view of the general authority provided in paragraph 34(1)27 to define in the building code any word or expression not defined in the act.

I think we mentioned previously that we are going to be having definitions, and this "as-constructed plans" is going to be defined clearly.

**Mr White:** Just a couple of very simple points, one for the parliamentary assistant: I'm wondering if it's possible, given the amount of time we have, if you could just read the amendment.

**Ms Harrington:** I thought you wanted to know.

**Mr White:** I'm sure that everyone is wanting to move through, as we have an agreement to be finished in less than an hour, and with that, I'm sure that we all want to vote hurriedly on this amendment.

**Mrs O'Neill:** Would you please clarify for us what you mean when you say that we're going to be getting a series of definitions? Are you talking about in the regulations or are you talking about opening up the act again?

**Ms Harrington:** I'd like to have staff clarify very quickly if they could, because this is something that we spoke about earlier. Would you feel comfortable, Colleen?

**Ms Parrish:** I'm sorry; I'm somewhat lost, I'm afraid.

**Ms Harrington:** George would like to deal with it.

**Mr Wildish:** I'm just looking here for which number the amendment is.

**Mrs O'Neill:** I think we're talking about paragraph 34(1)2 right now, but the parliamentary assistant just made a statement about definitions. She said we're going to get a series of definitions, and I just wonder what she means. I suggest the parliamentary assistant should know what she means.

**The Chair:** Can I ask the legislative counsel just to make a comment.

**Ms Mifsud:** They have another motion to paragraph 27 which allows them to define any word in the act that's not already expressly defined. That would preclude defining this term "as-constructed."

**Mrs O'Neill:** When or how? Does it say by regulations? I tried to get this question answered.

**Ms Mifsud:** It does say by regulation.

**Mrs O'Neill:** It's what number?

**Ms Mifsud:** Paragraph 34(1)27. It's later on in your motion.

**Mrs O'Neill:** This is another motion.

**The Chair:** Yes.

**Ms Mifsud:** Yes, it's part of the same package.

**The Chair:** That's the piece of paper that was just distributed.

**Mrs O'Neill:** Thank you.

**Mrs Marland:** Mr Chair, I would like to know why this bill—

**The Chair:** Sorry, Ms Marland, I want to finish with Mrs O'Neill's point, and then we'll come back.

**Mrs O'Neill:** I'm going to try to get this through my head, but it's not easy.

**The Chair:** Okay, but do you have a copy of 31?

**Mrs O'Neill:** I think I do. I thought we were dealing with something else though, as-constructed plans. I thought we were dealing with that amendment. We're going over to paragraph 27, is that right? Is that the piece of paper I'm supposed to be looking at?

**The Chair:** Yes, which is the reason legislative counsel has said this amendment is now before us, because if this passes, then you can't define the term.

**Ms Poole:** On a point of clarification, Mr Chair: I think the confusion has come about where the parliamentary assistant mentioned the fact that in paragraph 31(1)2 originally it talked about defining as-constructed plans. However, they no longer want to put that particular phrase in because they're putting in a new one in paragraph 34(1)27, where they can define a broad range of definitions. So now, for paragraph 2 all they want to do is mention the fact that the conditions under which as-constructed plans may be required will be prescribed, which I wholeheartedly concur with because it alleviates one of my concerns that a municipality might do it across the board.

**Mrs Marland:** Paragraph 34(1)27, as printed in the bill, is the one defining drainage, correct?

**Ms Poole:** They're taking that out, and they have that new amendment which has just been handed out.

**Mrs Marland:** Yes.

**Ms Parrish:** If I may assist, the old paragraph 27, which defined drainage, is being proposed to be struck out, and this more general clause, as Ms Poole referred to, defines all kinds of things: drainage, as-constructed plans and applicable law. Remember the discussion we had earlier about applicable law? This is the section that defines, by regulation, applicable law and drainage and several other things.

**Mrs Marland:** Again, it's difficult to speak on one amendment without referring to the one that's coming as well. How is it that the government is now proposing to substitute an amendment that includes a reference to the building code?

**Mr Tilson:** Thank God there's a time limit on this debate.

**The Chair:** Is that a question to the parliamentary assistant?

**Mrs Marland:** Yes, it's a question.

**Ms Harrington:** Okay. Are you saying that the words "building code" are directly in what I have read?

**Mrs Marland:** No, it's coming up in paragraph 34(1)27: "defining, for the purposes of this act and the building code." We've just passed a resolution removing the reference to the building code.

**Ms Harrington:** Okay. What we wanted to take out was the word "purpose," because we have a purpose clause somewhere else and legislative counsel said we cannot have two purpose clauses. Certainly the building code is referred to, I would imagine, in many places throughout the act.

**Mrs Marland:** So we just don't want to refer to the purpose of the building code anywhere else but in one amendment. Is that correct?

**Ms Harrington:** That's right.

**The Chair:** Shall the government motion, the amendment, paragraph 34(1)2, carry?

Motion agreed to.

1510

**The Chair:** The next item is a Liberal motion; however, it is related to a defeated Liberal motion to subsection 1(1) and it is therefore out of order. So we will move on to paragraph 34(1)6, government motion.

Ms Harrington moves that paragraph 6 of subsection 34(1) of the bill be amended by striking out "techniques and systems" in the second and third lines and substituting "systems and building designs."

Any comments? Again, another amendment with respect to wording. Shall the government amendment, paragraph 34(1)6, carry?

Motion agreed to.

**The Chair:** The next one, again a government motion, paragraph 34(1)6.1.

Ms Harrington moves that subsection 34(1) of the bill be amended by adding the following paragraph:

"Interpretation

"6.1 Setting out rules and policies to be observed in the interpretation of the building code by any person exercising a power or discretion conferred under the act or the building code."

**Ms Harrington:** I hope you find this interesting.

Interjections.

**Ms Harrington:** You will find it interesting, all right?

"Given the increasing size and complexity of the building code, the fact that it provides no guidance for those persons who are required to apply discretion in making regulatory decisions has proved problematic. As we continue to encourage the industry (designers, manufacturers, builders) to be more innovative, there is a concomitant increase in responsibility placed on those charged with making decisions which require interpretation of the intent of the building code, including the acceptability or sufficiency of compliance regarding proposed 'equivalents' or new materials, products, systems or designs.

"Whether a regulator or one of the regulated industry participants, it is important that the regulatory system have an appropriate degree of transparency and hence predictability. The ability for the province to prescribe in the building code criteria for its interpretation will help to achieve this goal and lead to more uniform application of the building code by municipalities."

**Mrs Marland:** Mr Chairman, honestly, I think somebody's having this committee on.

**Mr Tilson:** Is this a joke?

**Ms Harrington:** This is very important.

**Mrs Marland:** The one thing I will say for this Bob Rae socialist government is that if they're going to put the lawyers out of business with one piece of legislation—perhaps the automobile insurance—they're certainly going to keep them busy with this stuff. There's no way the poor little soul trying to put an addition on his house, or a little builder building one house at a time and who doesn't have the money to hire somebody, is ever going to understand what this act is saying.

**Mr Tilson:** They won't even understand the reasons for the amendments.

**Mrs Marland:** Wow, that's about the best stuff I've ever read for being convoluted, the explanation for this amendment.

**Ms Poole:** Actually, I was quite clear on what the amendment said until I heard the reason for it. Now I'm totally confused.

**The Chair:** In that spirit of confusion, shall I move the government motion? Shall the amendment to subsection 34(1), paragraph 6.1 carry?

**Mrs Marland:** No. I think Mr Tilson has a really valid point. If people want to understand this amendment, I suppose, unless they go to Hansard, they won't have access to this printed reason of the government for this amendment. That's probably the good news; the good news is it will be buried in Hansard. But should they be of a profession that wishes to do their homework and they get to this paragraph that says, "it is important that the regulatory



system have an appropriate degree of"—what?—"of transparency and hence predictability."

**Mr Tilson:** It's all a mirage.

**Mrs Marland:** I would like an explanation of that.

**Mr Tilson:** I realize we're pressed for time, but I must confess I'm simply not going to throw up my arms in horror and say, "Well, I give up; I don't understand what's going on," which is what this amendment appears to say. It appears we've lost control of the building code and so we're going to put in this section which simply assigns everything: definitions, rules, every sole thing.

I would like someone to answer Mrs Marland's question, because that's what it all gets down to: What is the purpose of this? We have two volumes over here; are we all going to get rid of the volumes and get a gigantic machine and press the word processors? Is it completely out of control?

**Ms Harrington:** What we're saying here is that the building code has an increased complexity as innovation comes in, that there's more responsibility on the building officials and what we're setting out are rules and policies that will guide them. It's not just going to be their individual opinion, but there are rules and policies they will be following.

**Mr Wildish,** would you like to comment?

**Mr Wildish:** Following on that point, as people have been commenting the last few days, the code is getting more and more broad in the scope of what it covers and it's putting more onus on building officials and other commission officials to make decisions that of course have to take account of that broadened scope. It's not as simple as perhaps in the old days where a thing just had to be structurally sound and not burn up. There are more things to be taken into account these days, whether it's the environment, pollution or accessibility and so on. For a person who has a responsibility under the code to make decisions, there are many more things to be taken into account.

With this increased burden placed on the official, one of the reactions could be for him or her to simply say: "This is too much for me. I'm not going to make a decision in this area and stick my neck out and get into trouble. Never mind, I won't grant an equivalent. Why should I take the trouble?" Of course, that would defeat the purpose of many of the code and bill amendments, which are intended to facilitate the whole process.

So by putting a purpose statement in the bill, which, as you've already referred to, has several components, these components will of course come to the attention of those charged with the power of discretion and they'll have to make decisions by referring to those. They'll need some guidance to do that, as to what they should consider. This particular section, paragraph 6.1, provides that the regulations can set out rules and policies for making these decisions. This will provide a little guidance for these people, to let them know how to do things, and also for those who are making designs and drawings, such as architects and engineers. They will know that there is a purpose which has been outlined already and that there is a way that purpose will be interpreted which will be covered in the

regs. They'll have some idea what to expect when they put in plans and drawings, so it's a two-way street.

**Mr White:** I would like to support this amendment. However, I want to hinge my support upon the parliamentary assistant's commitment to read no further the reasons for the amendments, which only serves to goad all three parties into outrage and indignity at the sado-masochistic intent of these amendments, or at least the rationales therefor. So I would certainly encourage the parliamentary assistant to proceed forthwith with no further reading of the reasons for the amendments.

**Mrs Marland:** I want to tell you, Mr Chairman, what I'm going to do with this amendment: I'm going to enlarge it, frame it and put it up in my office as an example of a government out of control. As the Housing critic for our caucus, I am going to send a copy of this to every chief building official in this province, because what this says is, if all else fails, you're on your own. You can interpret it as long as there's a "degree of transparency and hence predictability."

This is absolute garbage. I don't blame Mr Wildish. I don't know who has written it, but I think the ministry officials themselves just don't know where to go with this building code any more.

1520

I think it's an absurdity to the degree of infinity to say, under paragraph 34(1)6.1: "Interpretation: Setting out rules and policies to be observed in the interpretation of the building code by any person exercising a power or discretion conferred under the act or the building code," and then to read the explanation of that simply means that for all the money that we spend reviewing the code and all the money and time and energy that have been spent in bringing Bill 112 to us, when it comes right down to it, it's too complex, it's too convoluted and it doesn't make a lot of sense to that little guy who's trying to do some building in this province. The big conglomerate developers and builders and the home builder associations, all they have to do is get somebody who's very good at arguing, and they will pay consultants to go to the chief building official and use this reason for the amendment as an argument to permit whatever it is they want to do. That's surely what I would do.

I just don't know why it has to be so complicated. I'm talking about the building code and this bill, as we are revising the building code. In my seven years of reading anything in this Legislature, that's got to be the prize.

That's exactly what I'm going to do with this. It's unfortunate that we have so little time, but this page says it all. I'm not blaming anybody in this room, but it's a confirmation that as far as the Building Code Act for this province is concerned, it's totally out of control.

I know what they're trying to do: recognize innovation and progress and improvement in materials and so forth. But at the same time, this government is coming along with another section further on which is going to include a whole lot of new things. We're in this much of a mess with what exists, and we're going to include all these new things, these new requirements for new buildings, some of



which I support wholly—energy conservation and so forth—things that I've already commented on this week and last week.

But the great news is that it's going to be on every building in this province—not just the new buildings; the existing buildings. What we're creating here is the biggest monster you could possibly visualize. Everybody who's going to be working in that field is either going to get wealthy as consultants and lawyers doing the interpretation, or the poor souls who are trying to get building permits are going to go out of their minds trying to understand for themselves what the Ontario Building Code is all about.

If we're really concerned about the cost of building in this province, and we certainly should be, the little example about what it's going to cost to have as-constructed plans on file is peanuts compared to what it's going to cost for them to interpret the whole act—maybe \$100 for an extra 20 sets of plans. That's just going to be nothing compared to the interpretation of this bill itself. This amendment to paragraph 34(1)6.1 confirms that.

I'm sorry to take that much time to express what I think is terribly important, because it's a total disaster when you come to read something like this, which in fact really sums it all up. Where do we think the bureaucracies of municipalities are ever going to begin with the enforcement of this act, with the changes in it that this government wants on buildings that exist today?

**The Chair:** Shall the government amendment to paragraph 34(1)6.1 carry?

**Mrs Marland:** I'd like a recorded vote. Let's just step the vote down for a minute till our people come back.

**Mr White:** Can we stack the vote until we have the members here?

**Mrs Marland:** Rather than stop, though, let's just step the vote down until we get back our two people who are out of the room at the moment.

**The Chair:** All right. Let's move on then to government motion, paragraph 34(1)9.

If those who are going to vote would please get here, it would be appreciated.

**Ms Harrington:** Before I read that, I do want to say that I think you have certainly made comments which are out of proportion here. Building officials across this province do want the building code revised and they are interpreting the act. They always have. All we're saying in paragraph 6.1 is that we are setting out rules and policies for interpreting that. Certainly, I thought you might find this wording interesting. Obviously, it went a little bit further than that, and convoluted. I hope if you send it out to them, they will appreciate what we go through here on their behalf.

**Mrs Marland:** I'll send you copies of their responses.

**Ms Harrington:** Okay, that's fine.

**The Chair:** We are dealing with paragraph 34(1)9.

Ms Harrington moves that subsection 34(1) of the bill be amended by striking out paragraph 9.

Any thoughts or comments?

**Ms Poole:** Just read the last sentence back, that's all.

**Ms Harrington:** Because we're moving the Ontario Water Resources Act into the Building Code Act, this section is redundant and therefore should be deleted.

**Mrs Marland:** You're saying that the control of pipes, fittings, fixtures and materials is going to be under another act, not the Building Code Act?

**Ms Harrington:** Would you like to comment?

**Mrs Marland:** If 34(1)9 reads "providing for the testing and marking of pipes," is this the right one?

**Ms Harrington:** Yes.

**Mrs Marland:** So you're putting that out. You're removing that, rather.

**Mr Wildish:** Paragraph 9 in the bill was taken directly from the Ontario Water Resources Act and moved into this bill. It was observed later on that an existing paragraph 8 indeed covered everything that was in 9 and there was no need then to move in 9. So it's suggested here to be deleted.

**Mrs O'Neill:** I want to go back, but this may not be the moment. I want to ask for something in writing from the officials, if they could help us. When we finish with this one, could I go back?

**The Chair:** To the previous one?

**Mrs O'Neill:** Yes.

**The Chair:** Yes. In fact, are there any further comments on 34(1)9?

**Mrs Marland:** So the explanation is that 9 is addressed in 34(1)8?

**The Chair:** Yes.

**Mrs Marland:** As long as that is the answer. I don't want to hear that the answer's in another act, because we have to pay another \$250 an hour to have the other act interpreted.

**The Chair:** I want to go back to Ms O'Neill's question, but can we move government amendment 34(1)9? Shall that amendment carry?

Motion agreed to.

**The Chair:** Ms O'Neill, we'll go back to your question.

**Mrs O'Neill:** I think I'm struggling almost as much as Mrs Marland with the 6.1 addition. I'm trying to figure out what or why this would be here. It would be very helpful if the staff in the Ministry of Housing were able to give us some idea of why this is necessary; what are the parts of the act that will have to be dealt with through these kinds of regulations, what are the interpretations that are causing the most trouble. If we could have three to five of those where they're going to obviously put a few people on to this task, that may help me understand this, because, really, the reason for the amendment is extremely hard to accept without any idea of what you're talking about. So that may be helpful, if somebody could do that for us.

1530

**Ms Poole:** You're talking about that in writing?

**Mrs O'Neill:** Yes, I would like to have in writing some examples of what you're trying to get at here. There has to be a reason for this, but certainly the reason is next to impossible for me, anyway, to accept.

**The Chair:** Is that, given that today is the last day, just that something be provided—

**Mrs O'Neill:** Yes, because this bill has not passed the Legislature yet and we're the ones who have to interpret these things.

**The Chair:** Right. So if that could be provided by ministry staff, then, is the question.

**Mrs O'Neill:** And examples. Is that possible?

**Ms Harrington:** Would you like to comment at this point, very briefly, as well as provide in writing later?

**Mr Wildish:** Yes. Essentially, it boils down to this: if you were a building official faced with a problem, for example, of approving an equivalent material that some potential builder has brought to you and said, "May I use this?" As the act grows in scope, as we've been talking about here, taking into account many more features, you, as the building official, will be more and more hard-pressed to decide: "Should I accept this material or not? What factors should I take into account? For example, should I be worried about pollution? Should I be worried about environmental impacts? Or I just might want to report that this thing is structurally sound, for example. How should I make some of these decisions?"

To help these building officials and those interpreting the act in general, to let them know how to interpret things, how broadly to look at things, we're going to have to give them some guidance. That kind of guidance can be spelled out in the regulations in very straightforward terms, as would be appreciated by Mrs Marland, so that building officials indeed will know how to do their jobs. I'm including with building officials members of commissions and boards who have to make decisions of this type as well.

**Mrs O'Neill:** So the criteria for making a judgement about materials would be one thing.

**Mr Wildish:** Yes, materials would be one thing.

**Mrs O'Neill:** Is that what you just expressed?

**Mr Wildish:** Yes, or any other decision that has to be taken in the act.

**Mrs O'Neill:** Okay. Could you give us two or three examples, because this is one I think people are going to ask us about because it's definitely new and obviously you're having problems—people must be calling or something—to have made you put this in.

**Mr Wildish:** It's directly related to the purpose clause, which you saw, which Mr Tilson commented on about having several components listed. If that is taken as the purpose of the code and the act, then that of course should be consulted when making a decision. So the building official would have to examine those and come to a decision he or she can live with, and is going to need some guidance in doing that, hence the purpose of the interpretation clause.

**The Chair:** We're going to be coming back to that for a recorded vote, but could we move now to Ms Poole's Liberal motion, paragraph 34(1)10.1.

Ms Poole moves that subsection 34(1) of the bill be amended by adding the following paragraph:

"10.1 Allowing the review of plans and the inspection of buildings and related powers of the chief building official and inspectors to be delegated, and prescribing the requirements to be met by persons to whom these powers are delegated and the conditions under which the delegations may occur."

Please go ahead with your comments.

**Ms Poole:** This amendment addresses concerns raised by, I'd say, virtually every presenter, certainly a large number of them, including the Canadian Bar Association, the Ontario Home Builders' Association, the Urban Development Institute of Ontario, and I believe several others raised the issue of the certified professionals.

It was their view that it would be extremely helpful to municipalities in peak times to be able to delegate certain of the chief building official's duties to certified professionals. This obviously would not be every certified professional. It wouldn't be all architects or all engineers. It would be specifically ones in the field who had the confidence of the chief building official and who could carry on these duties when the municipalities were in overload at peak times.

As I said, this did have a broad range of support. It was in the previous Liberal draft legislation, Bill 103. It seemed to be an area that was not without questions to be asked and answered, but there was a great deal of interest in pursuing it. So I would very much hope that the ministry would reconsider its removal of this provision from Bill 112 and that it would consider reinstating it.

**The Chair:** We'll have consideration of this, then. I just note that when that is completed, we will also have the recorded vote on the item we haven't dealt with as yet. Any comments on the Liberal amendment?

**Ms Harrington:** There is a Conservative amendment, I believe, which is similar. I wonder if the Conservatives would like to—

**The Chair:** Is there a Conservative amendment? I'm sorry, I don't have that before me.

**Mrs Marland:** No, I don't think so.

**The Chair:** Wait a minute. Can we just pause for a second?

**Ms Harrington:** Paragraph 34(1)29 is similar.

**The Chair:** Where is that? I'm not quite sure why it is where it is, but it's exactly the same, I'm told.

**Mrs Marland:** I don't see it.

**The Chair:** It is an amendment. I guess it is to add paragraph 29, is it? Yes, you were doing it by way of adding a paragraph, but it is the same as the—

**Mrs Marland:** Where is it?

**The Chair:** It is about three pages farther along, the second one that's marked "PC motion."

**Ms Harrington:** Before I comment, I thought the PCs would like to comment, since their amendment is the same.

**Ms Poole:** Do they have an amendment that's the same?



**The Chair:** Yes, but what they have done is to add paragraph 29. What you have done is to change 10.1, but the content is the same. I think it was just done this way to see if we were all still sharp on our toes.

**Ms Harrington:** I saw it, though.

**Mrs Marland:** We are very sharp on our toes. In the interests of time, obviously, since we're moving the same amendment, we support the Liberal amendment.

**Ms Harrington:** I would like to comment. We distributed to you yesterday some pages with answers to the questions that were asked a couple of weeks ago. What it explains are several ideas. "It was decided to delete the enabling legislation for the plans review and inspection by designated architects and professional engineers program, or PRIDAPE, proposed in Bill 103, pending resolution of some of the basic regulatory issues." The last line is, "The ministry continues to closely monitor regulatory developments both here and abroad, including those concerning the certified professional concept."

I wanted to quote from September 3 because I think what Ms Marland said is an important idea. I think we've got a potential for a conflict of interest here where we have private certified professionals who are overlooking and certifying the plans that, say, their own company has made. It's a potential that this might happen. The public today has so much confidence in the chief building officials of Ontario, of the municipalities, that we are not ready at this point to delegate that authority.

1540

**Ms Poole:** I don't want to belabour it, but I don't think it was shown during the committee hearings that this conflict of interest was actually substantiated. While there's always potential conflict of interest, it was felt that the chief building official would only be delegating cases to a certified professional with whom he or she did not have a personal connection. I'm not sure I accept that as an argument and I think it's a shame we're going to have to wait probably another nine or 10 years before incorporating this very worthwhile idea.

**Mrs Marland:** I think it'll be a revelation to the committee to know that I am a good listener. When I raised at the beginning of the hearings—before, in fact, we'd heard the deputations—the concerns that I had about certifying other parties to act on behalf of the municipalities, in other words, certifying other professionals, I was concerned about the potential for a conflict, as Ms Harrington just referred to. But I want to be fair and tell you that the reason I was concerned about a possible conflict of interest was that I had not had it explained to me who the certified professionals might be, that they might at one point be acting as consultants to a developer, builder or builder's association and then, on the next case, they may be in this category of certified professional acting on behalf of the municipality through the chief building official's power.

Actually, I must tell you I was given a very excellent example by the former Housing critic for our party, who is far more knowledgeable than I am, the member for Dufferin-Peel, Mr Tilson. He said to me, what is the difference between where a municipality commissions a legal firm

for outside advice—it commissions an environmental planner if it doesn't have an environmental planner on staff. In other words, professional services are often, and in some municipalities quite frequently contracted out, as it were, by municipalities. To have certified professionals under the commission of a municipality to look at building plans really isn't any different than to ask them to comment on legal matters, planning matters or any other matter.

As long as the municipality has the final say as to who the certified professionals would be and the parameters under which they would operate, I now think it would be a very good solution to expediting the whole process of building permit applications in those seasons of heavy construction, without loading down the municipality with additional staff it doesn't need in the off season.

That is the reason we have the amendment and that's the reason I support the amendment now. As long as it's within the control of the municipality whether or not it has certified professionals, who they are and how they would work, then I think it is as equally good an option as any other professional consultants the city hired to interpret other provincial statutes and municipal bylaws.

**The Chair:** Any further comments? We will then move to vote on the Liberal amendment, paragraph 34(1)10.1. All those in favour?

**Ms Harrington:** Could we have five minutes?

**The Chair:** Sorry?

**Mr Gary Wilson:** We're going to delay the votes until—

**The Chair:** No. We are now at—

**Mr Gary Wilson:** Can we have a recess, then, for three minutes?

**The Chair:** No. There was a request for a recorded vote on paragraph 34(1)6.1, which will happen. This is not a recorded vote. There's been no request for a recorded vote on the Liberal motion on paragraph 34(1)10.1. All those in favour of the Liberal motion? Opposed?

Motion negatived.

**The Chair:** I will then call a recorded vote on paragraph 34(1)6.1. This is a government motion. There is a request for a recorded vote.

**Ms Poole:** Mr Chairman, Mrs O'Neill has asked for further information. I understand our deadline is today, so although we appreciate some of the intent, until we receive that information, we cannot support the amendment.

The committee divided on Ms Harrington's motion, which was agreed to on the following vote:

**Ayes—6**

Harrington, Lessard, Mammoliti, Perruzza, White, Wilson (Kingston and The Islands).

**Nays—5**

Daigeler, Marland, O'Neill (Ottawa-Rideau), Poole, Tilson.

**The Chair:** We then go to the Conservative motion on paragraph 34(1)20. Who would like to place that before us? It now is a quarter to 4, if I might note that for committee members.



Mrs Marland moves that paragraph 20 of subsection 34(1) of the bill be amended by inserting the following:

"20. prescribing the form of a warrant for inspection and the form in which the information upon oath will be taken under section 21;"

**Ms Poole:** Just a question of clarification: Because the amendments by the Liberals and Conservatives previously referring to a warrant of inspection were not passed, I wonder if this is actually in order. Can you prescribe something when you don't have it in the body of the act?

**The Chair:** We will just have a brief—

**Mr Tilson:** Pause.

**Ms Poole:** I didn't think it'd be a hard question.

**The Chair:** A stimulating question. Ms Poole, I'm told that indeed this would be, given the previous action, out of order.

**Ms Harrington:** Thank you for your acumen.

**The Chair:** We will then move to paragraph 34(1)(27), government motion, and the one before us is the single sheet that was handed out.

Ms Harrington moves that subsection 34(1) of the bill be amended by striking out paragraph 27 and substituting the following:

"27. defining, for the purpose of this act and the building code, any word or expression not defined in this act, and in so doing may define a word or expression differently for different provisions."

This is the one we were referring to earlier.

**Mrs Marland:** Now this reason I want you to read.

**Ms Harrington:** I don't know whether I want to. I'm going to frame that other one too.

**Mr Tilson:** The definition changes from time to time.

**Mrs Marland:** Let her read it, the "Reason for amendment."

**Mr White:** We only have 12 minutes. Last time it took half an hour for her to read it.

**Ms Harrington:** It's up to the committee if you want me to read it.

**The Chair:** Order, please. Ms Marland has requested it.

1550

**Ms Harrington:** "This amendment will permit certain words used in Bill 112 to be defined in the building code, eg, 'applicable law.' This provision may also be necessary in the context of certain regulations to be enacted pursuant to Bill 112, eg, conditional permits—subsection 8(3); equivalents—section 9; change of use—section 10." We already have discussed most of these.

"The reason for being able to define a word differently for different provisions is to cover situations such as the difference in the components of 'applicable law' when referring to construction or demolition (see section 8) compared with the components of applicable law when referring to use of a building (see section 10)."

**Mr Tilson:** I have difficulty. I can understand your saying that in a particular section the definition may vary, but why wouldn't you say in that specific section, "For the

purposes of this section, such-and-such means the following"? Why wouldn't you do that? I guess it carries on with that terrible amendment we just went through. Is the uncertainty going to become unbelievable with this sort of definition? Because how will a building inspector know? Are you going to have a page defining what "applicable law" means? Is that what you're going to have?

**Ms Harrington:** I'm wondering if Ms Parrish could clarify this, or would you rather have me ask Mr Wildish? I'm not sure you heard the question: Why would we have two different definitions from different sections?

**Ms Parrish:** It's possible that there might be some term that you would use, a term of art that you would use, for example, when referring to plumbing but you might not use exactly the same word in some other place. It simply, I guess, allows you to use the definition in the way that people who operate in the trade use it and to define it slightly differently. The main purpose, I think, is to deal with some of the more problematic areas, such as the definition of "drainage," the definition of "applicable law," the definition of several other things that people want defined by law. That's my understanding of it. George may be able to give a more technical answer than that.

**Mr Wildish:** The best example to use is the one that's given here. As you know, we talked about the definition of "applicable law" earlier on. It will be a complicated definition, for certain, when it is done. It refers to applicable law when you're issuing a permit for new construction and it says the things that a building official has to take account of and assure compliance with before he issues a building permit. Later on in the act it refers to applicable law when talking about change-of-use permits. The listings of applicable law in both situations will probably be different; hence "applicable law" could have different definitions for the two locations.

Let me elaborate one more bit: You can imagine change of use. You're interested in standards that govern the use of existing buildings, and the listing of laws may well be different from those that govern new construction. So in the list, looking at the definitions for applicable law, you would look for the one that deals with change of use if you're dealing with that, or you'd look for the one that deals with new construction if you're dealing with that.

**The Chair:** Mr Tilson, for one further comment, and then we'll vote.

**Mr Tilson:** I think we're going to be weighted down with definitions that are just going to be insurmountable. You're going to have to have a PhD to qualify to be a building inspector in the province of Ontario. It's just becoming so complicated, so difficult to understand. We've run amok.

**Ms Harrington:** It was very clear that the building officials were asking us for a clear definition of "applicable law." They wanted the laws listed. In fact, I believe your own party and the other opposition party were both asking for this to be clarified as well.

**Mr Tilson:** That isn't what we said. We said, "If you're going to define it, define it." What this says is, "We'll make up definitions as we go along." It's like

changing the rules of the game as we proceed, a most uncertain way to proceed with the building construction in the province of Ontario. We're trying to develop certainty and, if anything, what we're doing is creating uncertainty.

**The Chair:** Shall the government motion for paragraph 34(1)27 carry? Opposed?

Motion agreed to.

**The Chair:** We will move along. The next one, which was withdrawn earlier, the Conservative motion, was the one that was the same as the earlier one. We then have a slight order problem. With the clerk's help here, the next one should be the Liberal motion to subsections 34(2) and (3), which would then be followed by the Conservative motion to subsection 34(2), but the Liberal motion needs to come first because of the content.

**Mrs Marland:** I don't have the Liberal motion.

**The Chair:** It is two down in your package. It got into the wrong place. It is a very brief one. I'm sure Mrs O'Neill and Ms Poole would be able to assist.

Ms Poole moves that subsections 34(2) and (3) of the bill be struck out.

**Ms Poole:** The explanation may take just a tad longer than the actual amendment. Subsections 34(2) and (3) give the authority in the legislation that regulations could establish standards for existing buildings in the building code. This has raised quite a bit of controversy. The building code has traditionally not dealt with the standards for existing buildings except, I believe, and Mr Wildish may correct me, in health and safety matters, where the existing buildings were included in current legislation. So is it Bill 103, then? I understood that in previous legislation, whether it be Bill 103 or the old building code, there was one provision in there regarding existing buildings, health and safety. Is that not correct?

**Mr Wildish:** The old, current act and the new bill both have regulation-making power under subsection 34, and those existing regulations do apply to existing buildings, because you could have renovation or repair and such things going on in existing buildings. So, indeed, regulations 1 up to 28 do apply to existing buildings as well as to new construction. Has that addressed your problem?

**Ms Poole:** My understanding was that the change for this particular piece of legislation, Bill 112, was that all existing buildings could have to meet standards through the building code for not only construction but also maintenance, occupancy, repair, health, safety, everything, and that previously, existing buildings did not have to, under the building code, meet all those requirements.

**Mr Wildish:** Yes.

**Ms Poole:** Okay, thank you. I am not terribly confused, then, although I may have confused everybody else by now. What the Liberal amendment does is completely strike out the references to existing buildings in subsections 34(2) and (3) because we believe that if you're going to make such a major change, it should be dealt with either by separate legislation or by bringing back an amendment to the Building Code Act at a later date, when all the ducks are in a row.

Our concern is that the parliamentary assistant told us they are sensitive to the concerns of trying to incorporate the existing buildings into the framework and they know it's going to cause problems and therefore they were going to have a very substantial consultation; they were going to ensure that this was all done in a very orderly and comprehensive fashion. But meanwhile what has happened by putting existing buildings into the code in such a comprehensive way, in subsections 34(2) and (3), is that this has led to even more uncertainty in the residential apartment industry.

We had a presentation from the Fair Rental Policy Organization of Ontario, which represents many landlords both large and small in the province, and they were extremely concerned that this would be one more blow to an industry that's already reeling, that in fact many people are thinking of leaving the multiresidential apartment sector, and if they find out that they're going to have to bring everything up to code in their existing buildings, which may be 30, 40, 50 or 60 years old and which may be an astronomically expensive proposition, this adds one more blow.

If it's going to be done, it has to be done properly, and I think it has to be well thought out. To put this in and leave that air of uncertainty for what could be well a year or longer does not seem to me to be a very good idea.

It is our proposal that there be separate legislation or a future amendment to the Building Code Act to deal with this, but that it should be all done at the same time and done when the government is ready to move on it, not just thrown in a piecemeal fashion right now and have to deal with the ramifications at a later date.

1600

**Mrs Marland:** Just on a procedural point, Mr Chair, I don't think it's procedurally correct to accept an amendment that moves that two subsections at a time be struck out.

**The Chair:** My understanding is that you can't move two sections but you can move subsections, which (2) and (3) are, of section 34.

**Mrs Marland:** I respectfully suggest when we're moving through this bill, admittedly we move section by section, but if there is a question on subsections within the section, that we take them numerically. The reason I'm suggesting that is that I wanted to speak to 34(2) and I also wanted to speak to 34(3), and it is possible to request an individual vote on both of those, because they are numerically individual. I'm suggesting that the Liberal motion, although it encompasses two subsections, might be out of order and it should be worded one subsection at a time.

**The Chair:** I appreciate your comments. I understand that this is in order and that indeed you can speak to both of those and, furthermore, that you have an amendment yourself to 34(2).

**Mrs Marland:** What is the option?

**Ms Poole:** I suggest we vote separately on 34(2) and 34(3), if that is acceptable.



**The Chair:** We can do that if you withdraw this motion and resubmit, in moving subsection 34(2) and, separately, subsection 34(3).

**Ms Poole:** I'd be happy to do that if it helps debate this in an orderly way. I will withdraw this motion, then, and I will instead move that subsection 34(2) of the bill be struck out.

**The Chair:** All right. We would then, Ms Marland, deal with subsection 34(2) and subsequently with 34(3). Would that meet your concern?

**Mrs Marland:** Yes, because that's my experience, that that's how we go through—

**The Chair:** Fine. Then you would still move your motion to 34(2) prior to our getting to 34(3). Okay? Understood? So then on 34(2), Ms Marland.

**Mrs Marland:** The other question I have is, if the Liberal motion 34(2) fails, asking that 34(2) be struck out, my motion would still be in order because I'm making a substitution.

**The Chair:** It would be. Yes, it would.

**Mrs Marland:** That's fine.

**The Chair:** Would you care to comment on the Liberal motion?

**Mrs Marland:** Yes, I'd be happy to, because I'm happy that the Liberals made the motion. I'm sorry they didn't give us a solution that might help in asking that it be struck out. I think it's possible to be constructive as well as disagreeing with the intent of the ministry, and that's the purpose of our motion. I'm also glad they picked up on the notice I gave, as the first person for the opposition who said we would be placing a motion addressing the concerns of the public as this bill pertains to existing buildings.

In answer to the concerns I raised with the parliamentary assistant about existing buildings, I appreciate the fact that I did receive a printed response. The printed response actually gives me more concern than I had originally, because in the printed response the ministry is saying, through Ms Harrington:

"The scope of the existing building standard will be determined only after extensive consultation with all parties affected by the standard such as representatives of the following stakeholders: building owners; tenants; building inspectors; municipalities; building renovation contractors, and design professionals.

"In establishing the scope of the existing building standard and in particular, whether to include requirements for energy and water efficiency, we will examine a wide range of issues and impacts. These include: experiences in other jurisdictions; cost recovery; the impact on landlords and tenants; enforcement implications, and the effectiveness of other methods, other than code requirements, to achieve our goals. Also, in developing the regulations for the existing building standard we will be careful to ensure that they are in harmony with rent control provisions in Bill 121."

If I was concerned before, I am even more concerned now. It is obvious that if you were even going to consider including existing buildings in the requirements of Bill

112, you could have done your homework, quite frankly. I have stated all along that I have no difficulty with those provisions that are in the area of health and safety; obviously, that goes without saying. But if you're going to bring in an amending bill to the Ontario Building Code that might affect existing buildings, why wouldn't you have done your homework first? Why wouldn't you already have consulted with these people before you pass a bill which includes existing buildings, before you pass a bill that says the Lieutenant Governor in Council may make regulations to establish standards that existing buildings must meet even though no construction is proposed, including regulations etc?

I think it's appalling that you put at risk property owners and people who have to live in those properties in this province by even considering that some of the far-reaching ramifications of this bill might apply to existing buildings, whether or not they're affordable, whether or not they're realistic.

When you talk about finding out experiences in other jurisdictions, I mean, surely to goodness this could have been done. It's like so many things this government is doing: It steps forward with its big feet in an ideological direction, and it's so bent on it that it doesn't take the time to do the homework first.

When you talk about cost recovery and then you go on to say, "We will be careful to ensure that they are in harmony with rent control provisions in Bill 121," well, I want to tell you, there's no harmony in Bill 121. There's no harmony of rights for tenants or property owners. So when this answer is tied into a reference to Bill 121, it gives me even greater concern.

I don't like handing off the responsibility. I realize I'm in opposition and that I'm powerless, as an opposition member with a majority government, to really do anything substantive in stopping this steamroller that's going down the track, but I am gravely concerned about the fact that the kinds of implications that are in this section are so serious and so severe and yet no homework's been done on it. It is totally unacceptable on behalf of the public of this province and it's totally inexcusable.

I'm not happy because I'm also powerless to have anything to do with regulations. The public doesn't understand this, nor has it needed to in the past; but by Jove, they're going to be understanding a lot more when we get through with this session of this government in the next two years.

1610

The public doesn't understand that government brings in legislation for public debate, even public hearings, through the committee process, but after that the government can go away with its new bills, its new direction through legislation, and pass all kinds of regulations that never come back into the public forum for discussion or debate again. So whatever these regulations are that are to be developed by the Housing ministry under Bob Rae's socialist government today, I have no opportunity to debate those regulations. When I see the answers that have come out during our hearings and our clause-by-clause on Bill 112, the concerns I had before we got into this process are even greater.



Let me give you one example. We asked the question, and interestingly enough—I don't think I'm wrong in interpreting this—I think Mr Ron Hansen, the member for Lincoln, raised a question about plumbing; if you build a new bathroom or a new kitchen as an addition to your house, even though your existing house had an existing plumbing standard, would that new addition have to meet the new plumbing standard? I felt that Mr Hansen, in asking the question, was asking from an experiential base he had that I don't have. We have not experienced that, personally.

In any case, the parliamentary assistant took the question and has printed an answer. The question here is, "How does the plumbing code address renovation of the plumbing systems and what are impacts of Bill 112?" The answer is: "The present plumbing code regulation made under the Ontario Water Resources Act will require that all fixture replacements comply with the plumbing code of the day. Also, where the location of a washroom is changed"—and that's the example Mr Hansen was giving—"and new piping is installed, or the old piping is extended, the new provisions of the plumbing code would apply. In both cases water-efficient fixture"—I guess it should be plural; it's a typo—"in both cases water-efficient fixtures would be required."

I've said before that I'm in favour of anything that conserves energy. I'm in favour of water-efficient fixtures, but I'm not in favour of changing the rules in midstream. If you've got an old house and somebody's building an addition or doing a renovation, if the requirements of the new plumbing code have such an impact that all the intake and out-take plumbing from that whole building are affected, then I think it's unrealistic and I think it's unfair. Maybe people, through necessity, have had to expand their existing home. Maybe they can't afford to buy a new one and their family's expanded or their family's coming home—all the examples that we know our constituents are experiencing on a daily basis. Maybe they've decided that, based on a certain cost, they can go ahead with the project to expand their dwelling units. But, my goodness, if as a condition of that expansion they have to meet the plumbing code of the day for all fixture replacements, which is what this answer says, then I think we're being unfair and unrealistic to the people of this province.

We also talked about ceiling heights with Mr Hansen, and there was another member of the government who was asking about ceiling heights. It may have been Mr Perruzza, but I don't recall. It was somebody who knew something about the significance of ceiling heights. The answer here is similar. I'm not going to take the time to read into the record six paragraphs about what this answer is. But the thing is that it's a significant answer, because this is the same government that is pushing for the development of additional units within an existing building, namely, basement apartments or accessory apartments.

Madam Parliamentary Assistant, you want to solve the housing problems of this province by putting people into basement apartments, accessory buildings and accessory apartments—not my solution, by the way, nor that of the Progressive Conservative caucus. Our view as the future

solution to the shortage of housing in this province is not a view from a basement window. We have a greater vision for the provision of housing in this province. But having said that, you're the people who are going to encourage people to make renovations to accommodate additional units in their existing buildings, and at the same time you're passing a building code which will have new requirements in it for those people, which means additional costs.

That's bad enough in itself, I think, in terms of single-family homes. But when you start looking at the 150,000 property owners in this province who have invested in property in order to give a home to someone else, then I think the whole thing becomes unbearably onerous and unbearably expensive.

The fact that you are looking at something being in harmony with the rent control provisions of Bill 121 says to me that there is no security that existing buildings will not be exempt. You're obviously going to make the decisions for those 150,000 property owners in this province. They might as well accept that, down the road, they will be asked to comply with some of the conditions we can see that are covered in this bill, let alone those regulations that we have not yet seen. They're going to have to comply with them.

I must say too that I did acknowledge that Alexandra Samuel very kindly faxed me a response from Hansard that was given by the parliamentary assistant at the point when I was not in the room on September 3. In this response, Ms Harrington is replying to my question where I did request an amendment guaranteeing the exemption of existing buildings. In this response, Ms Harrington said:

"Our commitment to full public consultation on the development of all regulations means that we would not wish to make any final decisions on what will and won't be part of the code for existing buildings until all concerned groups have had a chance to contribute. As Ms Marland pointed out herself, certain additional areas, like energy efficiency, could possibly prove to be broadly accepted by the public and all interested groups for inclusion in an existing building code. It's impossible to say at this time what kind of measures would be included."

That's the sentence that gives me the most concern. I guess from a practical standpoint I'm very disappointed, because I don't think you can bring in new standards into a building code and then say, "It's impossible to say at this time what kind of measures would be included." You have no right to bring in new requirements in a building code "that may affect existing buildings." You have no right in a democracy, I would suggest, to change the rules in the middle of the game, and if you don't know what kind of measures would be included at the time you're bringing in this bill, 112, then I would suggest that the bill is premature to include existing buildings at all. If you want to include existing buildings at a future date, then do it after you've done your homework. But I think what's happening here is not in the public interest of this province.

1620

**The Chair:** Thank you. Ms Harrington, and we are on 34(2). It has been split.

**Ms Harrington:** Right.

I think you've expressed how you're seeing this, but I believe that you're viewing it a little bit from a different perspective and I'd like to try to explain that to you. I have, I think, explained before what enabling legislation is.

But let me start by saying that there is support for having a code for existing buildings from various groups, as you may remember from two weeks ago; and one is from the Toronto Area Chief Building Officials Committee. What they said in their second page is:

"We are enthused about the prospect of...having a set of established standards for existing buildings. As buildings age, they need repairs, maintenance and even upgrading. Some kind of a code for existing buildings"—and they said "some kind of a code," which is to be developed, obviously—"would go a long way in ensuring our buildings are safe and continue to be fit for occupancy. It can be argued from the public safety point of view that a code for existing buildings is just as important as the building code for new construction."

I would put that last sentence to anyone in this province and I think they would agree, if they stopped to think about it, that a code for existing buildings is just as important as the code for new buildings.

I want to point out at this time, and I've said this before, that this type of legislation is what we call enabling legislation and it's quite common—this is not an isolated case—where it gives the ability to proceed, not to lay it in stone in black and white as to what it will be, but it opens the ability to proceed with this; and it was also in the Liberal Bill 103. There was an enabling provision for certified professionals and also an enabling provision for a code for existing buildings. So this is nothing new or strange, and I put that to you and I'd like you to try to understand that.

The third point I want to stress is this whole procedure for setting up regulations, and that is, a code for existing buildings. I have given you on paper just yesterday some details of that procedure and how it would work, because that was the question asked of me—I can't remember exactly who asked it—two weeks ago, and we discussed it at length two weeks ago.

I spoke with many of the presenters who came here about being involved in that process. It is a public process. Certainly MPPs and any constituent who is interested can be part of this.

But in the past the development of regulations under the building code has mainly been done by people in the field—the builders, the professionals, the building officials, the people with the hands-on experience—and that's probably the way it will be done in the future. Maybe my staff might like to talk about that a little further. I haven't been directly involved in that process in the past, but it is going to be an exciting thing. As you say, the word right here from TACBOC was "enthused" about starting this process and how important it is. It's not going to be done

overnight; it's going to be many years, and certainly I think you should be part of the process.

**Mr Tilson:** The difficulty if the government section with respect to existing buildings passes is that I believe that all of your plans for the basement apartments, the accessory apartments for which the plans are being put forward by the government, all of that's going to be scuttled. Mr Hansen was quite right. Why would anybody renovate? Why would they go to that expense? Because the restriction on existing buildings are going to be astronomical.

You've kicked the landlord with Bill 4 and Bill 121. You've literally kicked them. You've put restrictions on them. They can only do certain expenses because of the percentage increases they're allowed each year. Now, with this, you're stepping on them, you're squishing them into the ground.

Mr Dewan is perfectly correct in his submissions, and I would ask Ms Harrington and other government members of this committee to read Mr Dewan's paper before this finally comes to the House. Read it again. He's not kidding. All the sections that are being put forward—well, there are three comments. I'm not going to read them; you can read them yourselves. I hope you will take the time to read them. He did make them. If you listen to what he's saying, none of what you're saying, with all due respect, Ms Harrington, makes any sense at all.

**The Chair:** Could we now move the Liberal motion? I would like to call it subsection 34(2). Shall the Liberal amendment to subsection 34(2) carry?

**Mrs Marland:** Recorded vote.

The committee divided on Ms Poole's motion, which was negated on the following vote:

**Ayes—5**

Daigeler, Marland, O'Neill (Ottawa-Rideau), Poole, Tilson.

**Nays—6**

Harrington, Lessard, Mammoliti, Perruzza, White, Wilson (Kingston and The Islands).

**The Chair:** We'll now move on to the Conservative motion to subsection 34(2) and we will come back to the Liberal motion to subsection 34(3). I simply note for the record that it is 4:30.

Mrs Marland moves that 34(2) of the bill be struck out and the following substituted:

"34(2) That before this act can be proclaimed into force the government shall introduce legislation to establish in law the standards that existing buildings must meet even though no construction is proposed, including statutory provisions,

"(a) prescribing any or all of the matters set out in subsection (1) as applicable to existing buildings;

"(b) establishing standards of maintenance, occupancy and repair; and

"(c) prescribing standards related to resource conservation and environmental protection.

"(d) providing that the act apply to buildings whether erected before or after it comes into force.



"(e) providing that any provision of that act or a regulation under it may be limited in its application territorially or to any class of building, construction or demolition.

1630

**Mrs Marland:** I think I have placed my concerns on record. The only part that isn't included in this amendment, and I guess you have to understand the legalese to know why it isn't actually spelled out in this amendment, but I am on record now two or three times as I have said that I'm completely in favour of upgrading existing buildings as it pertains to personal health and safety. For example, I know that the Ontario fire marshal has full powers to apply any changes under his code to existing buildings. Anything else that pertains to personal health and safety in a building, I'm suggesting we are supportive of applying it to existing buildings. I'm simply saying that those areas I've already addressed are areas where I support them being incorporated in new buildings but not applying to existing buildings.

Just one brief comment, since we are trying to be brief. The government is talking about making energy conservation, and one of the methods of that is to revise the plumbing code. It is beyond me to understand why the government isn't looking at other energy conservation measures, such as the example I gave of the automatic shutoff of lighting systems. In reply to my question about energy-efficient technology in new buildings in Canada, and in particular in Ontario, the ministry has written me a three-paragraph response, but for the record, I only want to read you one final sentence, because this is its reason for not doing anything in that area, and I don't accept it. It says:

"It is also important to realize that European building...technology"—I had used that as an example—"is quite different than the North American system. Mandating a particular technology should be looked at in the context of Canadian building construction and safety standards." Of course I would want it to be looked at in the context of Canadian building construction and safety standards. The final sentence is, "The ministry continually reviews developments in other countries and foreign codes."

I ask, "So?" I don't want the ministry to continually review. In this particular example, as part of energy conservation, I'd like to see them require, therefore, down the road, conservation of our environment, something that deals with energy-efficient technology such as automatic shutoff lighting systems.

I'm sorry that was a negative answer. All the ministry is doing is continuing to look at that particular subject.

Our amendment is trying to be helpful. We were moving that subsection 34(2) be struck out, but we felt we weren't saying we wouldn't consider some areas of application of this act, and I think that's simply all this amendment is saying.

**Mr Tilson:** I think Mrs Marland has adequately expressed my view. I will say, in addition, that we've gone through a number of rent control hearings in the last couple of years, and there's no question that the housing stock

in this province is in serious trouble. Seventy-five per cent of the housing stock is 20 years old or more. I forget what it is, but it's a substantial amount of the housing stock throughout the province. It's quite old and deteriorating.

We've heard very sad stories from around the province of tenants who are living in substandard conditions. We've heard from landlords who simply say they don't have the financial resources to remedy these things. We've heard from members of the government continually talking about how they want to promote energy conservation projects, yet there doesn't seem to be any effort to sit down with the tenants, with the landlords, with the government, to deal with these issues. We're simply getting the sledgehammer, banging the landlord on the head and saying: "This is the way it's going to be and that's that. It doesn't matter whether you've got any money or not; that's what you're going to do. We're not going to discuss it. We're not going to tell you how to do it. We're just going to pass it, and that's that."

That's opposed to putting forward proposed legislation in some sort of consultative effort among the government, the tenants and the landlords and how we're going to deal with all of these very serious issues to improve the housing stock and the quality of life of the tenants in this province. I would submit that unless you put forward such legislation, you are not doing that. So I would ask members of the committee to support the amendment as put forward by Mrs Marland.

**Ms Harrington:** I'd like to comment briefly. I find extremely contradictory a couple of the statements I have just heard. You're saying we're just going to pass it, when we've just been discussing for the past hour or so how we want to consult with regard to an existing building code. This will certainly be, as you heard before, with landlords and tenants and many others. I've heard the comment that we should line up our ducks first. You can't be saying one thing and then the other.

**Mr Tilson:** They've never heard of it.

**Ms Harrington:** They have been here and they have heard it. On the one hand, Ms Marland is talking about European technology and getting this involved here, and that's what we're saying we are doing over the next few years, getting innovative ways of building. Half an hour ago I heard one thing, and now I'm hearing a completely contradictory item. I think we should get together on this, because I do believe that we want to go in the same direction.

**Mr Tilson:** Support the amendment; that's what I'm saying. Let's get together. Let's move the motion forward.

**Ms Harrington:** All right.

**The Chair:** I wonder if we might then put the motion.

**Mrs Marland:** Excuse me, I can't let that comment stand. Not from this party have we heard any opposition to innovation in building design, building material or any other amendments to this code that are relative to new buildings where the public benefits. I have not changed my position, nor has Mr Tilson, in our comments of half an hour ago.



Half an hour ago we were discussing this disgusting convulsion of paragraph 34(1)6.1 and the fact that it's necessary, according to the parliamentary assistant, because of the number of new materials that are coming into the building and construction marketplace. We're talking about a technology that is another way of saving electricity in the example that I just gave. We are in favour of improved technology that reduces the cost of operation of buildings in this province, be they private homes or public, commercial buildings. What we're saying is that you can't go and change the rules in the middle of the game.

**Ms Harrington:** With innovative standards for existing buildings.

**Mrs Marland:** Yes, it may be, Madam Parliamentary Assistant, that it is a benefit to put a new kind of light switch in an existing building. But I'm not going to put that burden on that building owner if it costs him more to go through and rewire and reswitch all the installation in that existing building than the amount of money he saves on the cost of electricity, although goodness knows, with our socialist board at Ontario Hydro, we probably are going to have increased costs in electricity. So it may end up being cheaper, as an example.

I'm simply saying you can't mandate it. Give the option to the property owner. If it's approved as an option under the building code to have energy-efficient technology for automatic shutoff of lighting systems, you can't mandate it. Give them the scope of applying it if it's going to save them money and it's going to save energy and the environment down the road. So we're not changing our argument.

1640

**The Chair:** I now put the question.

**Mr Tilson:** Recorded vote.

**The Chair:** Recorded vote. Shall the Conservative motion, the amendment to subsection—

**Ms Harrington:** We need our other person here.

**The Chair:** I'll have to call a recess then.

**Ms Harrington:** I'd like to call a recess for two minutes. Who are we looking for? I can't remember.

**The Chair:** I don't know.

**Ms Harrington:** May we proceed?

**The Chair:** I would put the Conservative motion, the amendment to section 34(2). A recorded vote.

The committee divided on Mrs Marland's motion, which was negated on the following vote:

**Ayes—5**

Daigeler, Marland, O'Neill (Ottawa-Rideau), Poole, Tilson.

**Nays—6**

Harrington, Lessard, Mammoliti, Petruzza, White, Wilson (Kingston and The Islands).

**The Chair:** We now move to the Liberal motion, which has been split, on 34(3). I simply note that there's

also a Conservative motion 34(3). At the risk of being repetitive, I would indicate that the time is now 20 to 5.

**Ms Poole:** In view of the fact that our amendment to subsection 34(2) has failed, I will withdraw subsection (3).

**The Chair:** Okay. The Liberal motion 34(3) has been withdrawn. We then turn to the Conservative motion 34(3). Is there someone to speak to the Conservative motion?

**Mrs Marland:** Yes, Mr Chair.

**The Chair:** Mrs Marland moves that subsection 34(3) of the bill be struck out and the following substituted:

"Application

"(3) Every regulation made under subsection (2) applies to buildings erected after the coming into force of this act, but only those regulations made under subsection (2) that deal with health or public safety apply to buildings erected before the coming into force of the act."

Comments?

**Mrs Marland:** My comments are on record, and obviously my concern about exemptions for existing buildings from the building code changes is that they apply unless they are required in order to meet health or public safety regulations. I've already referred to that in earlier debate.

**The Chair:** Indeed.

**Ms Poole:** I was just going to question whether this in fact should continue to be debated since the Conservative motion to subsection 34(2) had failed. But at this stage we've debated it, so we may as well vote on it.

**Mrs Marland:** Recorded vote.

**The Chair:** Recorded vote.

The committee divided on Mrs Marland's motion, which was negated on the following vote:

**Ayes—5**

Daigeler, Marland, O'Neill (Ottawa-Rideau), Poole, Tilson.

**Nays—6**

Harrington, Lessard, Mammoliti, Petruzza, White, Wilson (Kingston and The Islands).

**The Chair:** We then move to government motion 34(3).

Ms Harrington moves that subsection 34(3) of the bill be amended by striking out "subsection (2)" in the first and second lines and substituting "this section."

Motion agreed to.

**The Chair:** We then move to government motion 34(5).

Ms Harrington moves that section 34 of the bill be amended by adding the following subsection:

"Purpose

"(5) The purpose of the regulations made under this section is to establish standards for public health and safety, fire protection, structural sufficiency, accessibility, conservation and environmental integrity with respect to buildings."

Members will recall some discussion on this earlier. Any discussion at this time?

**Mrs Marland:** I don't think we can pass this without understanding what the words mean, and we certainly know what most of the words mean. Conservation and environmental integrity are probably going to fall into that wonderful catch-all that's interpreted under paragraph 34(1)6.1. When nobody knows what conservation and environmental integrity are, they're going to be able to read this marvellous statement about "appropriate degrees" and "transparency" and "hence, predictability." I think, in fairness, maybe the parliamentary assistant should tell us what "environmental integrity" is with respect to buildings.

**Ms Harrington:** This is a purpose statement which generally guides the purpose of the building code, of the regulations. I think it is clear. It states six different aspects that are the purpose for which we have a building code in Ontario.

**Mrs Marland:** I'm sorry. If you want to read your reason for the amendment, fine—

**Ms Harrington:** I didn't.

**Mrs Marland:** —but I still would like to know what the words "environmental integrity" mean with respect to buildings, and I think the public needs to know.

**Ms Harrington:** That certainly is something that is fairly broad when we say "environmental integrity." It gives a direction, and I think from some of the things you were talking about with regard to buildings, those would fall under this kind of purpose.

**Mrs Marland:** In fairness, you haven't heard me use the words "environmental integrity." You can't tie your answer into something I've said. I want to know your explanation of "environmental integrity."

**Ms Harrington:** What I was saying was that some of the concerns that you had, the directions you'd like to go in the future, and you were giving specific examples of that, would fall under this direction or this purpose.

**Mrs Marland:** Which ones?

**Ms Harrington:** The ones with regard to, say, having light switches that go off automatically, some of your other concerns with regard to buildings.

**Mrs Marland:** That comes under conservation.

**Ms Harrington:** Yes. It's conservation and environmental integrity.

**Mrs Marland:** I know what conservation is. That's one of the things I was referring to about controlled light switches. I'd like your answer about what environmental integrity is.

**Ms Harrington:** Very frankly, I can't give you a one-sentence answer.

**Mrs Marland:** Can you give it to me in two sentences?

**Mr Tilson:** Or three.

**Mrs Marland:** I'm asking the parliamentary assistant what environmental integrity is so the public of Ontario knows.

**Ms Harrington:** I think most people generally understand the concept of environmental integrity. What it is, and I haven't thought of each word, is that what we pass

on to our children is going to have the same kind of wholeness that we inherit and we cannot deteriorate what we have; the concept that we cannot do anything we wish, that we have to think about the wholeness, the integrity of where we live, which in fact is this planet.

Now I don't want to go on and on and get too idealistic or broad about it, but I think when you say the words "environmental integrity" to people, even with school children, there is some understanding that "integrity" means a wholeness, that is, this planet, and we have to have that. Most people understand this more and more, that we have to think in those terms.

**The Chair:** Further comment on this section? I would then move the government motion, the amendment to subsection 34(5). Shall the amendment carry?

Motion agreed to.

Section 34, as amended, agreed to.

Section 35:

**The Chair:** Ms Poole moves that section 35 of the bill be amended by inserting after "construction" in the second and third lines "maintenance, occupancy, repair."

1650

**Ms Poole:** This was actually an amendment that I hoped would not have to be moved because it was only to have been moved in the event our previous ones failed.

This amendment was suggested by the Urban Development Institute, which felt that if you are making a provision for a code for existing buildings, then this section, which refers to bylaws respecting construction or demolition being superseded, must be expanded. Basically, they were saying that they wanted consistency throughout and that it should be very clear the building code would supersede local bylaws regarding maintenance, occupancy and repair.

**The Chair:** Any discussion? I will put the question. Shall the Liberal motion—

**Mr Anthony Perruzza (Downsview):** Mr Chairman, I'm not quite understanding what it is Mrs Poole is trying to achieve.

**Ms Harrington:** Could I ask my staff to clarify?

**The Chair:** Mr Perruzza, you were asking a question of Ms Poole?

**Mr Perruzza:** Yes. She's introduced an amendment to section 35 and in listening to her explain, I'm not understanding what it is she's trying to achieve through the introduction of her amendment. I'm just asking if she could expand on that a little bit because this section concerns me as well.

I sat on a municipal council which proceeded to do all kinds of things with its bylaws that didn't necessarily—I wouldn't say conform to the building code, but rather supplemented the code in many areas. In fact they tried to pass a motion and a planning resolution which essentially allows for different type houses in different sections of the city with different coverage. So quite frankly, municipalities have an awful lot of jurisdiction when it comes to construction and to planning and so on and so forth.



When I read what it says here in the act and then I listen to Mrs Poole, I'm not understanding clearly what she's trying to attempt. I'm not trying to extend the meeting hour because I know we're reaching that hour where people's stomachs begin to grumble, but I think this is important, so if she could explain briefly.

**Ms Poole:** Just very briefly, perhaps it would help if I mentioned to committee members that section 35 as it stands right now, the building code, which is the regulations, and this piece of legislation, 112, supersede all municipal bylaws respecting construction or demolition of buildings.

However, what it doesn't refer to is maintenance, occupancy and repair of existing buildings. Since that is now under this piece of legislation being brought into the code, then to be consistent it should say that the building code would supersede those municipal bylaws as well, that if the building code is going to supersede, then it supersedes across the board any of the municipal bylaws that relate to building code matters.

**Mr Perruzza:** If I understand this section correctly, and maybe we can get a staff person to expand on this a little bit, that's precisely what this does. It says that the code supersedes all of those bylaws and would cover all of those areas that are incorporated by the code.

**Ms Poole:** But only relating to construction or demolition. Now this legislation has expanded what the building code covers to also include maintenance, occupancy and repair, and section 35 is silent on those three things. What UDI argued is that if you're going to be consistent, if you are going to have a code for existing buildings, then surely all of those municipal bylaws should be superseded by the building code or the Building Code Act.

**Ms Harrington:** I'll ask our staff to clarify why it's not.

**Mr Wildish:** As has been mentioned earlier, making up the code for existing buildings is going to involve a great deal of consideration of legislation, consultation and so on and it certainly would involve a look at property standards and other municipal bylaws. Some of these bylaws may well be things the code for existing buildings does not wish to regulate and they should stay in effect in municipalities.

Until it's determined exactly what would go into a code for existing buildings, we would not want to supersede them all. Those ones that become a part of a code for existing buildings eventually, of course, would supersede anything dealing with that left to the municipality, but those that stay with the municipality we wouldn't want to supersede. So putting a blanket clause at this time might cause difficulties.

**Ms Poole:** So the problem again is with the timing. The plans for dealing with existing buildings aren't far enough along that you know what exactly you want to supersede and what you don't.

**Mr Wildish:** We await the consultation process and development approval of the contents of the code for existing buildings.

Interjection.

**Mr Perruzza:** I asked the question, Mr Chairman.

**The Vice-Chair (Mr Hans Daigeler):** Mrs Marland raised her hand first, but if she agrees that Mr Perruzza continue with his question—

**Ms Poole:** He still actually had the floor, I think. He was asking me a question.

**The Vice-Chair:** Okay. Mr Perruzza, please.

**Mr Perruzza:** I listened to the explanation and I'd just like to make an observation. I think we all would like to see a code that is as simple and unobtrusive as possible in allowing, I think, primarily small builders, small contractors, individual home owners to be able to construct a home or to make additions and renovations to their homes as expeditiously as possible, without burying them in red tape and without forcing them to have to undergo undue costs, because we all know how expensive the entire process is. I for one believe in a simplified process that is cost-effective, especially in a time when we're buried in the middle of a recession and we desperately need people, individuals out there, who have money to do and undergo these kinds of additions, renovations, construction, so that we can get our economy back moving again.

Allowing a little flexibility in both the code and the act and allowing municipalities a little flexibility I think is fundamentally a good thing, so that they can adequately respond to local needs. So I have no problem in supporting section 35 as is, after having listened to both explanations.

**Mrs Marland:** I don't understand the Liberal critic moving this amendment, and maybe she would like to answer my question, because section 35 reads, "This act and the building code supersede all municipal bylaws respecting the construction or demolition of buildings." You want to add the words to include "maintenance, occupancy and repair."

You supported exempting existing buildings from this act and now you're putting something in that obviously covers existing buildings because you're referring to maintenance, occupancy and repair. At least if you're going to maintain something, occupy it or repair it, it has to be existing.

**The Vice-Chair:** I'm sure Mrs Poole would like to answer that.

**Ms Poole:** Yes.

**Mrs Marland:** My concern is that I can't support this amendment because I think it's a direct reference to something that exists, if you're talking about maintenance, occupancy and repairing.

**Ms Poole:** Obviously I wasn't quite as eloquent as I thought I was in my opening comments on this section, because I did mention that I was hoping that this amendment would not be necessary to pass because we were hoping that our one on subsection 34(2) would pass, which would mean existing buildings would not be included in this particular legislation.

But the fact is that if they are to be included, then we would support UDI's submission that it should be consistent with the rest of the act and it should be very clear in each section of the act what is covered. I did allude to the fact—in fact I thought I spelled it out fairly clearly—at the

beginning that this does refer to existing buildings. We had hoped it would not be necessary.

**The Vice-Chair:** Are we ready to vote now on the Liberal amendment?

**Mrs Marland:** I have UDI's comments here and it doesn't have anything on section 35.

1700

**The Vice-Chair:** Seeing that we have nothing further, can we take the vote? Are we ready to vote on the amendment? All in favour of the Liberal amendment? Opposed?

Motion negatived.

**The Vice-Chair:** I understand there's a government motion with regard to section 35.

Ms Harrington moves that section 35 of the bill be amended by adding the following subsection:

"(2) In the event that this act or the building code and a municipal bylaw treat the same subject matter in different ways in respect to standards for the use of a building described in section 10, this act or the building code prevails and the bylaw is inoperative to the extent that it differs from this act or the building code."

Would you like to provide any explanation or are you ready for comments?

**Ms Harrington:** I think that was fairly clear.

**Mrs O'Neill:** It seems strange that about two minutes ago another member of the committee said that the municipalities do exactly what this act seems to be saying. Is this act then to stop these practices, because the reason I've got here says, "A municipal bylaw may not set a higher or lower performance level for any standard for the use of a building described in section 10." Is this the kind of thing we're trying to get away from that Mr Perruzza was bringing to our attention?

This is what's so difficult. The reasons for these amendments are so—you have to take such a—

Interjection.

**The Vice-Chair:** Just a moment, Mr Perruzza. I think Ms Harrington wanted to clarify this.

**Ms Harrington:** I believe we put this in simply to clarify that where municipal bylaws overlap in some way with the building code, this is the one that supersedes. Further to that, I'd like to ask staff to make sure that is clear.

**Mr Wildish:** Further to Mrs Poole's question just a while ago about not having maintenance and occupancy included because we were not at this time ready to say specifically which piece of legislation would be excluded, there's one part of the new bill that is to come into force immediately, and that is the change of use, section 10. So we have to avoid conflict at that point.

**Ms Harrington:** That's what section 10 is.

**Mr Wildish:** Section 10 is referred to there. So if, as the amendment says, there is a different treatment by municipal bylaws, then the building code and the act must supersede. The point about this is that it's not conflict in the usual sense. You'll notice that it's a difference in—I'm

going to read you the right words here—"municipal bylaws treat the same subject matter in different ways."

What's significant about that is that we're not wanting municipal bylaws to raise a standard or lower a standard. This is to restrict any change. You wouldn't want a municipality, for example, to set standards that were so high that by setting them so high it prevents change of use. On the other hand, of course, there are standards that set a bottom limit. You don't want them to drop below as well. So this is any change here, up or down, as the case may be, and this takes care of that eventually for a change of use, which would come into effect immediately.

**Mr Perruzza:** Now I'm confused as well, because what I tried to say earlier, and I don't think I made my point, is that often municipalities will top up the minimum requirements in the code. What I mean by that is if in the code, for example, an exterior balcony railing height has to be 42 inches—I believe that's the minimum requirement; I believe that's what's in the code now—a municipality can, for safety's sake, come in and say, "We'd like ours to be 50 inches."

Obviously someone can challenge that, and if it imposes and adds unnecessary costs to the construction of a building, they can do it to the 42 inches and then fight the municipal inspectors and fight the chief building official and end up in the courts and at the end of the day eventually win the case. However, municipalities try to do those kinds of things through the structure of their bylaws, and quite often they succeed.

Our factor requirement in exterior walls is R-12. I think that's what's in the building code. Many municipalities have topped up that requirement for heat retention and cold air retention in the summertime, to take those seasonal adjustments to an R-20 factor. More often than not, they get away with it, because you're not going to find your small contractor, the builder or the owner who is making a renovation fighting the municipality and saying, "No, I can get away with building to an R-12 standard in my exterior wall and not go to an R-20 standard that's going to cost me \$2,000 extra." Quite often, in order to issue those building permits, the municipalities will have those kinds of rules in place and more often than not get away with it.

I don't believe the R-12 requirement has been changed in the code, but if you check Scarborough or North York, nobody can build to that standard, because they won't get the permit for that standard. However, they can infringe on the minimum requirements that are in the code, and that happens quite often.

With what you've just said, I do not understand how that impacts on section 35 and how that limits the municipalities' ability to be able to make those modifications based on their own local needs and what they can get away with locally. Maybe you can explain that again.

**The Vice-Chair:** Perhaps I could just remind members of the committee that seeing we had agreed to finish at 4, perhaps they could keep their interventions as brief as possible.

**Ms Poole:** Mr Chair, on a point of order: I wish to correct a statement that was made earlier by the Conservative



critic when we were talking about section 35. She said she didn't see any reference to it in the Urban Development Institute's brief. It may have been somewhat confusing, because they actually had it as part of their submission under subsection 34(2).

**Mr Tilson:** That is not a point of order.

**Ms Poole:** It is a correction when something incorrect is on the record.

**The Vice-Chair:** As the Speaker would say, it's a point of information but it's not a point of order.

**Mrs Marland:** I was speaking on the same point.

**Mrs O'Neill:** Would the staff be able to respond to Mr Perruzza? I'm interested in this. Is that what is happening here? I understand he's giving an interpretation that you can have higher but not lower standards in a municipality.

Interjections.

**The Vice-Chair:** Could we just have one conversation here, please.

**Mrs O'Neill:** Could somebody respond? We heard his statement, and I'd like to know whether his statement is a correct interpretation of what's possible under the act.

**The Vice-Chair:** Would you want to comment on the request by Mrs O'Neill?

**Ms Harrington:** I would like to ask staff to clarify that.

**Mr Wildish:** Section 35 says the act and the building code supersede all municipal bylaws. That statement is broad and it indicates that the act and the code occupy the field of regulations, and municipalities should not do anything in that field. They should not regulate buildings where the code does it. They may attempt to do so, that's another problem, but the legislation does say that the code and the act occupy the field and others should not be in it.

The new one is different. As you notice, the write-up takes a different approach. It deals with the same area, "...in different ways in respect to standards for the use of a building described in section 10, this act or the building code prevails and the bylaw is inoperative to the extent that it differs from this act or the building code." So the rest of the bylaw stays. This feature that differs, that's inoperative.

1710

**Mr Perruzza:** So they'll not be able to top up; not break the law as stipulated in the code, but they would not be able to top up, because than they would be breaking the law as well.

**Mr Wildish:** That's the feature of this one. It's not just conflict, because with conflict it can sometimes be said: "We're doing the right thing. We're putting a railing"—to use your example—"a bit higher. That's even better, so we're not in conflict." This one does not take that approach. This says, "No, you don't go higher or lower."

**The Vice-Chair:** Are we now ready to vote on the government amendment to section 35? All in favour? Opposed.

Motion agreed to.

Section 35, as amended, agreed to.

**The Vice-Chair:** Sections 37 and 38 have been carried.

Section 39:

**The Vice-Chair:** Ms Harrington moves that section 39 of the bill be amended by adding the following subsection:

"Transition

"(10) Despite the repeal of sections 76 to 79 of the Ontario Water Resources Act,

"(a) a permit issued under a bylaw made under subsection 77(1) of that act is continued as a permit issued under subsection 8(1) of this act;

"(b) a notice of non-compliance issued under the plumbing code made under that act and a notice requiring conformance issued under section 78 of that act are continued as orders issued under section 12 of this act;

"(c) an agreement made under section 76 of that act is continued as an agreement made under section 32 of this act."

**Ms Harrington:** This is just a transition from one to the other.

Motion agreed to.

Section 39, as amended, agreed to.

Section 42:

**The Vice-Chair:** Ms Harrington moves that section 42 of the bill be amended by adding the following subsection:

"Transition

"(2) Despite the repeal of the Building Code Act,

"(a) a permit issued under subsection 5(1) of that act is continued as a permit issued under subsection 8(1) of this act;

"(b) an order made under that act is continued as an order made under the corresponding provision of this act;

"(c) an agreement under section 3 of that act is continued as an agreement under section 3 of this act."

**Ms Harrington:** This also is a transition from the previous act to this act.

Motion agreed to.

Section 42, as amended, agreed to.

Title agreed to.

**The Vice-Chair:** Shall the Chair report Bill 112, An Act to revise the Building Code Act, as amended, to the House?

**Mrs Marland:** I suppose, but we're not voting in favour of it going to the House.

**The Vice-Chair:** Shall the motion carry?

Bill, as amended, ordered to be reported.

**Ms Poole:** I have one final comment. We have had Colleen Parrish with us on two pieces of legislation, the Rent Control Act and the Building Code Act and the government has had her both times, so next time it's our turn, in the interests of fair play, to get Colleen Parrish on our side, for accessory apartments. How about that one?

**The Vice-Chair:** I'll leave it up to Ms Parrish to decide.

**Mrs Marland:** In fairness, the parliamentary assistant asked me earlier this week if our caucus would be willing to go to third reading on this bill. At that time, I said it depended on what happened with section 34 as it pertains to existing buildings. I want to state publicly that we are

looking forward to the opportunity in committee of the whole House to try to at least remedy that glaring problem with the bill of exempting existing buildings, which has not been remedied through the committee process. So we will be dealing with that in committee of the whole.

**The Vice-Chair:** I'm sure the House leaders will have further discussions on this matter. Seeing no further dis-

cussion, it just behooves me to thank everyone involved, especially the staff, and the members of the committee for a lively and interesting debate and for good work.

**Ms Harrington:** I'd like to thank the committee as well.

The committee adjourned at 1716.





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- \*Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)
  - Wilson, Jim (Simcoe West/-Ouest PC)
  - Witmer, Elizabeth (Waterloo North/-Nord PC)

#### Substitutions / Membres remplaçants:

- \*Harrington, Margaret H. (Niagara Falls ND) for Mr Martin
- \*Lessard, Wayne (Windsor-Walkerville ND) for Mrs Mathysen
- \*Mammoliti, George (Yorkview ND) for Mr Drainville
- \*Marchese, Rosario (Fort York ND) for Mr Drainville
- \*Marland, Margaret (Mississauga South/-Sud PC) for Mrs Witmer
- \*Perruzza, Anthony (Downsview ND) for Mr Owens
- \*Poole, Dianne (Eglinton L) for Mrs Fawcett
- \*Tilson, David (Dufferin-Peel PC) for Mr Jim Wilson

\*In attendance / présents

#### Also taking part / Autres participants et participantes:

- Harrington, Margaret, parliamentary assistant to the Minister of Housing
- Parrish, Colleen, director, legal services, Ministry of Housing
- Wildish, George, special assistant to the director, Ontario buildings branch, Ministry of Housing

Clerk / Greffière: Mellor, Lynn

Staff / Personnel: Mifsud, Lucinda, legislative counsel





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Second session, 35th Parliament

## Official Report of Debates (Hansard)

Monday 30 November 1992

### Standing committee on social development

Metropolitan Toronto  
Reassessment Statute Law  
Amendment Act, 1992

Chair: Charles Beer  
Clerk: Douglas Arnott

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Monday 30 November 1992

The committee met at 1545 in room 151.

### METROPOLITAN TORONTO REASSESSMENT STATUTE LAW AMENDMENT ACT, 1992 LOI DE 1992 MODIFIANT DES LOIS EN CE QUI CONCERNE LES NOUVELLES ÉVALUATIONS DE LA COMMUNAUTÉ URBAINE DE TORONTO

Consideration of Bill 94, An Act to amend certain Acts to implement the interim reassessment plan of Metropolitan Toronto on a property class by property class basis and to permit all municipalities to provide for the pass through to tenants of tax decreases resulting from reassessment and to make incidental amendments related to financing in The Municipality of Metropolitan Toronto / Loi modifiant certaines lois afin de mettre en oeuvre le programme provisoire de nouvelles évaluations de la communauté urbaine de Toronto à partir de chaque catégorie de biens, de permettre à toutes les municipalités de prévoir que les locataires profitent des réductions d'impôt occasionnées par les nouvelles évaluations et d'apporter des modifications corrélatives reliées au financement dans la municipalité de la communauté urbaine de Toronto

**The Chair (Mr Charles Beer):** I'd like to call the meeting of the standing committee on social development to order. We are here to discuss Bill 94, with respect to the question of assessment, the Metropolitan Toronto Reassessment Statute Law Amendment Act, 1992. Just before I recognize Mr Owens, could I say to those people who are looking for chairs, or if others come in when chairs run out, we have more space in committee room 2, which is just down the hall to the right, and people can watch on the monitor. So if there is a need for people to watch these proceedings and there isn't any room left here, committee room 2 will be open for that purpose.

**Mr Stephen Owens (Scarborough Centre):** While it's appropriate at this time to look at adopting the subcommittee report, there appear to be a number of issues that have arisen, and what I would like to propose, and I have discussed it with you and my two colleagues opposite, in order to get the parliamentary assistant's statement under way and continue with our technical briefing, I would like to move that we defer the subcommittee report until 7 o'clock this evening.

**The Chair:** Is that agreeable? All right, we'll defer that until 7 o'clock. I call upon the parliamentary assistant to begin this afternoon's proceedings.

**Mr Gordon Mills (Durham East):** This bill will permit Metropolitan Toronto council to implement its interim reassessment plan which was approved by council on October 29. A duly elected council has reached a decision after considerable debate and compromise, and the province must respect the responsibility of that local council.

However, there are certain aspects of the Metro plan that this government does not agree with. The legislation ensures that Metro will revisit certain issues that have caused some concern.

Let me begin with some of the background to the Metro bill. Properties in Metropolitan Toronto were last reassessed in 1953, when the municipality of Metropolitan Toronto came into being. Reassessment at that time was based on 1940 market values. In the last 50 years, property values have increased dramatically and have created large inconsistencies in property assessment, both within property classes and among the six municipalities comprising Metro Toronto.

Metro council has made various attempts to make some changes to an outdated property tax system. In 1988, Metro council developed an interim reassessment plan with a base year of 1984. The plan was approved by Metro council in 1989.

The former provincial government agreed to undertake the reassessment impact study for the interim plan but requested that the base year be 1988 instead of 1984 and that implementation be deferred until 1993.

In August of this year, the Ministry of Revenue prepared an impact study and delivered 1988 market value estimates for all properties in Metropolitan Toronto to Metro's staff. Using these values, studies of the Metro interim tax plan were prepared and published by Metro. Metro council held various public meetings to highlight the results of the impact study. Metro's management committee and Metro council heard 305 deputations and received 1,006 written submissions in response to invitations.

On October 16, the management committee of Metro council voted in favour of a revised interim reassessment plan for Metro. The plan was approved by Metro council on October 29 in a vote of 21 to 13.

All of us are familiar with the Metro plan, but I would like to highlight its key features for the committee.

#### 1550

Metro's interim tax plan is not full market assessment. It updates the assessment on residential, commercial and industrial properties by changing the assessment base from 1940 real estate values to 1988 values, but the plan's primary feature is to limit the increases and decreases that would otherwise have resulted for the overwhelming majority of properties in Metro.

This is an interim plan only. Metro is to develop a new tax plan by January 1997 for consideration by the province. Let me emphasize that no intermediate major changes can occur during the next five years without provincial approval.

Metro has proposed a unique phase-in of reassessment, permitting limited tax increases and decreases over the next five years. The legislation provides for this phase-in

through a system of cuts on increases and a clawback on decreases.

The regulations will specify the upper-limit rate of the caps. Metro will then pass a bylaw to implement them. Metro cannot exceed these limits over the next five years without asking for provincial approval.

For residential property, the regulations will provide for a maximum 5% increase in taxes in 1993 as a result of reassessment, plus a further 5% in 1994. Thus the package would limit increases to residential properties to 10% over two years. Just for example, if property taxes are now \$2,000, the total increase due to reassessment would be \$200, bringing the total to \$2,200.

Property tax increases for commercial and industrial properties will be limited to 25% over the next three years. In other words, if a business now pays \$10,000, the total increases over three years would be \$2,500, bringing the total to \$12,500 for property taxes only. It should be noted that businesses also pay business taxes to municipalities, and these are determined in proportion to the property taxes.

Owners of residential properties—that is, single-family dwellings, duplexes and apartment buildings—whose tax bill would decrease because of reassessment can expect 50% of that decrease over the next two years. For example, if the owner of a house is now paying \$2,000 in property taxes and the 1988 assessment update decreases that tax by \$500, under Metro's interim tax plan that home owner can expect a total tax reduction of \$250 over the next two years.

In a moment I will talk about how these decreases will be passed along to tenants living in rental properties.

For commercial properties, owners can expect a total tax reduction of 25% over three years. For example, if a business is now paying \$10,000 and the new assessment decreases taxes by \$2,000, the owner can expect a total tax reduction of \$500 over the next three years.

For industrial properties, the owners can expect a total tax reduction of 40% over the next three years. For example, if an owner is now paying \$10,000 in taxes and the new assessment decreases the tax by \$2,000, the owner can expect a total tax reduction of \$800 over the next three years.

Once the 1993, 1994 and 1995 tax changes attributable to the reassessment have been implemented, no further tax adjustments are to be made in 1996 and in 1997; 1998 is the beginning of a new assessment cycle. Between now and 1998, Metro, with the help of the province, must develop a property tax plan that is fair and ensures the continuation of healthy urban centres.

That is, in brief, the Metro plan.

Let me now explain how the province is responding to Metro's proposal. As I said earlier, the bill will allow Metro to implement its interim plan. There are, however, provisions in the legislation that will affect that implementation.

This government has heard the concerns expressed by the city of Toronto and many of its citizens and small businesses about the future of their city and the future of their neighbourhoods. We share the concerns about sustainable development for the suburban areas. That is why we are committed to working on a fair tax plan for the future.

Between now and 1997 the province will work with Metro and other communities to examine the full impact of any future property tax reform. We will still work with Metro on a social and economic impact study of future property tax changes. The legislation ensures that at the end of five years Metro will not end up with full market value assessment by default. Nor can Metro move to market value assessment by itself. The interim plan will continue, past 1997 if necessary, until the provincial government has approved a new plan.

In addition, there are elements of the Metro plan which the province does not agree with. We are ensuring, through the legislation, that Metro will revisit these issues.

The legislation gives Metro permissive authority—that is, it permits but does not require Metro—to remove the limits on tax increases when a single family dwelling or duplex changes ownership. Metro will have to consider this and pass a bylaw specifically removing these caps from houses when the ownership changes. We are saying to Metro in this bill that we are not in favour of that part of the plan that requires a house to be taxed at full market assessment once it is sold. They will now have to revisit that part of their plan.

We also have concerns about the impact of Metro's plan on certain other properties such as vacant land, pipelines and railway rights of way, as well as those public properties such as federal and provincial government-owned land, crown agencies or municipal agencies like the parking authorities. Bill 94 will give Metro permissive authority to develop limits on increases and decreases for these property categories in a similar fashion to the limits prescribed for residential, commercial and industrial categories. In addition, the bill will allow Metro to define special categories, such as parking authorities, which could be subject to the same caps as taxable commercial properties, in other words, a 25% cap.

I'd like to touch briefly on how the bill will impact on tenants.

The bill amends the Rent Control Act, 1992, to allow decreases to be passed on to eligible tenants.

Landlords will have to continue to apply for rent increases beyond the annual guideline limit. However, the Rent Control Act limits increases for extraordinary costs to 3% above the provincial guideline.

A 5% increase in property tax is not equal to 5% of the rent a landlord collects. For example, property taxes for a typical building equal 20% of the rents a landlord collects. If a landlord receives a full 5% tax increase, the cost could be covered by a 1% increase in the tenants' rents.

This bill enables a duly elected council to implement a local decision. This government respects that local responsibility. Because of the special nature of the Municipality of Metropolitan Toronto Act, Metro does not have the legislated authority enjoyed by other counties and regions in Ontario to reassess its property tax system. Currently, 733 municipalities in the province have opted for a property tax reassessment on their own authority.

However, it is important to point out that Metro has unique social and economic realities. That is why, in permitting Metro to implement its interim reassessment plan, this government has made certain provisions in the bill to



ensure that the social and economic viability of Metro and its member municipalities is maintained.

Thank you very much, Mr Chairman. Those are my opening remarks.

**The Chair:** Thank you for those opening remarks.

1600

**Ms Dianne Poole (Eglinton):** On a point of order, Mr Chair: In the five years I've been in this Legislature, I have never known an occasion when you have had a contentious subject like this and the minister has refused to appear. A number of us have questions specifically for the minister, because he has made very contradictory comments during the last few weeks, and I'm not sure his parliamentary assistant would be able to answer those questions. I'm wondering if we can request that the minister appear.

**The Chair:** Any other comments to this?

**Mr Owens:** Respectfully, I think the decision that was taken in the subcommittee was that this was an opportunity for the people of the city of Metropolitan Toronto to get in and get their points of view on the record. It was my recollection that all three parties agreed that this was an opportunity for that to occur and that the minister attending was not an issue there was any contention around.

**The Chair:** Mr Turnbull and then Ms Poole.

**Mr David Turnbull (York Mills):** I would like to support Ms Poole's suggestion. I would suggest to her that she should perhaps bring it as a motion to this committee, because it is quite unacceptable that the minister who has said absolutely contradictory messages at various times is allowed to wriggle out of this.

This is very important legislation which will affect Metropolitan Toronto substantially. The government is trying to have it both ways, because to different groups it's saying different things. We want to merely question him about the inconsistencies of the different statements he's made.

**Mr Owens:** This is not the opportunity, with respect—

**The Chair:** Excuse me, Mr Owens. I'll recognize Ms Poole, and then the parliamentary assistant wanted to say a few words.

**Ms Poole:** With respect to Mr Owens's comments, the purpose of these public hearings are obviously to hear from the public, but if Mr Owens consults his schedule, he will see that two and a half hours have been set aside for us to question the ministries of both Municipal Affairs and Revenue. There is no time during that period when the public has been invited to participate. We are not taking away from one citizen's time by having the minister here. I think it's totally outrageous that the minister would duck his responsibilities on this very contentious issue.

I am now going to put a motion on the floor that the committee request the appearance of the Minister of Municipal Affairs at these hearings so we can question him.

**The Chair:** Okay. The motion has been tabled by Ms Poole. I'll take comments on the motion.

**Ms Anne Swarbrick (Scarborough West):** I'll speak against the motion, based on the fact that the motion assumes

the parliamentary assistant is not able to effectively answer the questions; I think that's an unfair assumption.

**Mr Owens:** First of all, in terms of Ms Poole's grandstanding, I think the request for the technical briefings came from all three parties. If she has a particular problem with the way her caucus member performed in the subcommittee, then she should deal with that problem outside of this committee.

Secondly, it's my understanding that the minister will be appearing this week; if we could request that the motion be stood down, we'll confirm the date and the time of that appearance.

**Mr Mills:** I'd just like to comment that I don't think the minister's trying to wriggle out of anything at all. He's in the House today. This is a unique situation. We're here starting these hearings, it's still being debated in the House, and you have an opportunity up to this evening to pose to the minister these questions that you may or may not have. This time, in my opinion, is set aside to listen to the technical presentations from ministry staff—that's my understanding of it—not to debate or to argue about why the minister is trying to wriggle out or not wriggle out. That takes place in the Legislature, and that's where he is.

**The Chair:** I recognize Ms Poole and Mr Turnbull, then I'll put the question.

**Ms Poole:** When the parliamentary assistant says that the reason Mr Cooke is not here today is because he's in the Legislature, where they're debating market value, he's just full of it. Quite frankly, we sat through five hours of debate on market value last week and, except when the minister was giving his speech for the first 20 minutes, he was not in the House for the duration of that five hours. So there's no excuse for him not to be here today. We have specific questions about comments he has made as Minister of Revenue, and I don't think it inappropriate for him to be here to answer why his comments are contradictory and why he is pursuing a certain direction.

**Mr Turnbull:** There is a fundamental question here. We have the media, who are representing a lot of people who are interested from both sides of the issue, and they would like to record why the minister has said different things to different people which are totally contradictory. The opportunity for the media to record this by having him attend at some later date is unacceptable.

I would request that we send a message to the minister now to come down here. They only have to send a message upstairs. Then we have specific questions with respect to what he has said—not what the parliamentary assistant has said, but what the minister has said—over the last few weeks. It's quite clear that the NDP is trying to have it both ways, to the extent that during the last election it said it was against market value reassessment. They simply have to answer why they've made this turnaround.

**The Chair:** There's been a request, Ms Poole, whether you would stand down the motion pending Mr Owens's suggestion that they see when the minister could be here, if you are prepared to accept that. Or I would proceed with the vote, because I think we want to get on. There is a schedule here of—



**Mr Mills:** We can tell you when he's going to be here, if that's any help.

**Ms Poole:** If Mr Cooke is going to be here within the next hour, I would accept that as an alternative. We have not been given any reason why he isn't here right now, and I would ask to proceed with the vote.

**The Chair:** Can I just hear from the parliamentary assistant?

**Mr Mills:** The minister will be present here between 7 and 10 pm tomorrow night, Tuesday, December 1; he will be here between 7 and 10 pm on Wednesday, December 2; he will be here on Monday, December 7 from 7 to 10; again on Tuesday, December 8, and, depending on some tentative arrangements about the weekend sittings, he intends to be here on Sunday, December 6. So there's ample opportunity, in my view, when the minister will be here, and ample opportunity for you to present those questions. Whether or not the press and the cameras are here is not up to us.

**The Chair:** Those are the times that are set out.

**Ms Poole:** I am only prepared to stand down my motion if we have a specific allocation of time on the agenda for the minister to answer our questions. As Mr Owens pointed out earlier, the purpose of the hearings after 6 o'clock today was to get input from the public, so I would be very reluctant to take away time from the public for this. I really cannot understand why the minister has refused to appear today.

**The Chair:** I'll put the question. All those in favour of Ms Poole's motion? All those opposed? It's defeated.

1610

#### MINISTRY OF MUNICIPAL AFFAIRS MINISTRY OF REVENUE

**The Chair:** We'll then move on, if I might invite the representatives from the Ministry of Municipal Affairs and the Ministry of Revenue to come forward to the table. If I could ask perhaps the person who is playing leader to be good enough to identify those who have come forward, I would then turn it over for you to take the committee through the briefing. Please identify yourself for Hansard.

**Mrs Nancy Bardecki:** I'm Nancy Bardecki, the director of municipal finance from the Ministry of Municipal Affairs. I will open the technical presentation. Also making presentations are my colleague David Braund, rent registrar from the Ministry of Housing, and Michael O'Dowd, the director of assessment policy from the Ministry of Revenue.

**The Chair:** Welcome to the committee. We'll turn the proceedings over to you, Ms Bardecki, to lead us through.

**Mrs Bardecki:** As Mr Mills has said, Bill 94 represents enabling legislation to facilitate Metro's interim reassessment plan. As he's also indicated, this plan is not full market value reassessment. The plan enabled by this bill is intended to apply for 1993 to 1997. By section 241.15 of the bill, Metro is required to prepare and submit to the province by January 1, 1997, a reassessment plan to operate for the period 1998 to 2002.

The Minister of Municipal Affairs has indicated that our ministry will work with Metro and other communities in Ontario to examine the impact of market value assessment on neighbourhoods and business viability and to develop a plan that's fair.

In the event that Metro does not submit a new plan by January 1, 1997, the plan for 1993-97 will continue until such time as the province approves a new plan.

While the bill enables Metro to carry out all aspects of its proposed plan, there are some areas which the minister believes Metro may wish to reconsider. The first of these is the proposal to move to full market value for residential properties upon resale. The second area which Metro may wish to reconsider is the decision to apply full market value assessment to vacant lands, railway lands, and property subject to payments in lieu.

The bill requires Metro to reconsider these issues and gives it the flexibility to apply caps to increases and decreases to these properties if it wishes. This is outlined in section 241.14 of the bill.

The timing of the bill is important to Metro. It would like to be able to have its reassessment plan in effect for January 1, 1993. If it is not possible to pass the bill before the Legislature adjourns, we'll have to consider our options. These options include implementation at a later date in 1993; implementation when the bill passes, retroactive back to January 1, 1993; or postponement till January 1, 1994. All these options hold considerable complexities, so it's important to Metro to have this bill passed before the House rises.

I'd like now to deal with some other specific features of the bill and why they are as they are.

To a large extent, Bill 94 mirrors the provisions in the Municipal Act and the Regional Municipalities Act which enable upper-tier-wide reassessments in other areas of Ontario. These are sections 241.1 to 241.11 and 241.13. Because of its unique structure and its unique economic and social needs, Metro requires additional features to those that are in the Municipal Act and the Regional Municipalities Act.

Incidentally, as in most other reassessments, Metro has been done on a basis of property class by property class. This means that no tax shifts occur among property classes except those caused by the caps that I will describe a little bit later.

Metro's phase-in provisions are enabled in sections 241.14 and 241.17 of the bill. Caps on increases in taxes which are occasioned by reassessment will be established in the regulation; they're not in the bill.

For residential properties, increases due to reassessment will be capped at 5% in 1993 and an additional 5% for a total of 10% in 1994.

For commercial and industrial properties, increases due to reassessment are capped at 10% in 1993; a further 10%, for a total of 20%, in 1994; and a further 5%, for a total of 25%, in 1995.

While Metro plans to limit decreases in order to finance the caps on increases, these decreases are not in the legislation or in the regulations. This is because it is not yet known if the full intended decreases will be able to be

financed from the allowed increases. However, the intended decreases, for your information, are:

For residential properties they would be limited to 40% of the decrease due to reassessment in 1993 and another 10% in 1994, for a total of 50% of the tax decrease due to reassessment in 1994 and future years;

For industrial properties we'd be looking at 30% of the decrease in 1993, a cumulative total of 36% in 1994, and a further 4% for a cumulative total of 40% in 1995; and

For commercial properties we're looking at 12% of the decrease due to reassessment in 1993, a cumulative total of 21% in 1994, and a cumulative total of 25% in 1995.

As you may have perceived from these numbers, the bill permits cross-subsidization of the residential class by the commercial and industrial classes, as requested by Metro.

Metro Toronto is the only jurisdiction in Ontario that has a two-tier school board hierarchy, the Metropolitan Toronto School Board and the six boards of education having jurisdiction in each of the six area municipalities. This situation accounts for the various repeals of the existing apportionment-based system of raising school board requirements now contained in the Municipality of Metropolitan Toronto Act, at sections 2 to 7 of Bill 94, and the Education Act, sections 11 to 15 of Bill 94, and amendments to a uniform mill rate approach in raising school board requirements, section 241.4 of Bill 94.

Because of the complexity of protected features contemplated by Metro council and the magnitude of tax adjustments proposed to mitigate the tax increases, it became apparent that there is a need to provide a right to taxpayers to appeal their level of tax adjustment. This special provision is provided in section 241.20 of Bill 94.

As part of the interim plan, Metro council has also requested a discretionary authority to require tax reductions obtained by owners of multi-unit residential properties—that is, properties in the rent registry—to be passed on to tenants by reducing their monthly maximum rents.

I'm going to ask my colleague David Braund from the Ministry of Housing to explain this provision in more detail.

**Mr David Braund:** Part of the MVA plan for Metropolitan Toronto, as you've heard, is that the tax savings to landlords should be passed on to tenants. In other words, Metropolitan Toronto would like to ensure that rents are reduced to reflect the tax savings to landlords.

**Mr Bernard Grandmaître (Ottawa East):** Do we have a paper on this?

**Mr Braund:** No. I can provide you with one, if you would like.

**Mr Grandmaître:** I think it would be useful.

**The Chair:** The clerk will make copies. Please go ahead.

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**Mr Braund:** The province supports the principle of ensuring that tenants obtain the tax saving. The new Rent Control Act, which was passed just this year and was proclaimed in force in August, provides ways that maximum rents can be reduced.

In rent control, if there is a decrease of the landlord's municipal taxes through a reassessment, that means the maximum rents can be reduced. This can be done in two ways: through a tenant application or automatically. Before I explain those two methods, I'd like to deal for a moment with the concept of maximum rent.

Both the reductions done through orders and the automatic rent reductions will affect the maximum chargeable rent. This means that the rent actually charged that year is not necessarily reduced. The maximum rent is the rent legally charged in 1985, increased each year, but not all landlords have been able to increase the rent the full amount allowed by the guideline in every year, and especially in the last two years. Many tenants currently pay the maximum chargeable rent permitted by law. These tenants get an immediate benefit from rent reductions when the maximum rent is reduced.

However, there are many landlords currently charging less than the maximum permitted by law, primarily due to market forces. For those units, if the difference between the maximum rent and the rent the tenant is paying is greater than the tax savings, the tenant's actual payments will not change, but the maximum rent will be reduced so that in future the rent and the rent increases will be lower due to the tax savings, so there is a future benefit in terms of affordability.

The two methods I referred to are that, first of all, a tenant may apply for rent reduction and, by an order, a rent officer will reduce the maximum rent by the amount of the tax decrease. As well, the rent officer may join to the application all the other units in the building, which means that one tenant applying can result in rent reductions for the whole building.

There is a second method that was introduced in the Rent Control Act, in section 113, which is specifically related to market value reassessment, and that is the section which is proposed for amendment in the bill before you. It sets up a more automatic method of reducing maximum rents where landlords have tax savings from MVA, which does not require tenants to apply.

Reducing rents through automatic rent reductions has the advantage that tenants do not make an application. That means less time and expense for both the tenant and the rent control program. The Rent Control Act will provide that automatic rent reductions are only done where there is a general municipal reassessment, and they are only done where the reassessing municipality requests the automatic reductions.

The tax savings are calculated by the rent registry and automatically reduce the current rent recorded in the registry. Metro will then notify landlords and tenants of the rent reductions. The rent control program will then enforce the legislation so that tenants get the benefit of the full rent reductions.

There are also a number of buildings for which rent increases would apply because of the Metro MVA plan.

In rent control, there is only one way to have the maximum rent increased by more than the annual guideline: The landlord must apply for all of the units in the building. When a landlord brings an application, there is a scrutiny



of whether the rents charged are lawful, and the tenants can raise issues regarding the maintenance of the building and the units and they can point out services that have been withdrawn in the past.

The overall amount that the maximum rents can increase in any one year is only 3% above the guideline. That is all that can be allowed on an application. The increases to municipal taxes by the Metro MVA plan are, as Mr Mills pointed out, 5% of taxes and not 5% of rents. In fact, the average increase would be only about 1% of rents.

In other municipalities which have implemented market value assessment, our program has not noted a large increase in the application rate by landlords. We believe this is generally because such small increases, as are affected when you have caps like those proposed in the Metro plan, mean that landlords do not undergo the process of application. Our conclusion is that although many landlords of units may be able to justify small increases, they will probably not come to us unless they were going to come for some other purpose.

In summary, the Rent Control Act allows rents to be reduced where the landlord has tax savings either through applications from tenants or through an automatic process. The act needs several amendments to ensure that the automatic process can be used for Metropolitan Toronto. We'd be glad to answer your specific questions on the rent impacts of the MVA plan.

**The Chair:** To the committee, did you want to pose questions now? Are there other things you want to do by way of introduction before we get to questions, or should we do some questions now?

**Mrs Bardecki:** I would like to review some more portions of the bill that are housekeeping rather than policy in nature, and then call on my colleague from the Ministry of Revenue, but if there are questions that people have, I'd be happy to entertain them now.

**The Chair:** What is the committee's wish? Shall we hear the full presentation and then go back for questions?

**Mr Jim Wiseman (Durham West):** Let's hear the whole thing.

**The Chair:** Fine. Please continue.

**Mrs Bardecki:** I'm now going to outline some sections of the bill which are more housekeeping than policy in nature but are very necessary to see that this legislation enables the implementation of Metro's plan.

Section 241.1 of the bill provides authority for the Minister of Revenue to direct a return of the assessment roll, assigning new values to all one million assessable units.

Section 241.2 prescribes Metro council's estimates process. It's relatively unchanged.

Section 241.3 establishes a process for instituting uniform mill rates for Metro services.

Section 241.4 prescribes the estimate and mill rate process for all eight school boards: Metropolitan Toronto School Board, Metropolitan Separate School Board and six boards of education.

Section 241.5 provides the six area municipalities with the authority to levy their local mill rates on the revised assessment base.

Sections 241.6 and 241.7 provide the authority for interim levies by Metro council, school boards and area municipalities prior to the adoption of annual estimates.

Section 241.8 provides transitional powers in 1993 to the ministers of Education and Municipal Affairs.

Section 241.9 provides for the sharing of payments in lieu, amounts to Metro corporation and school boards. Presently, they're retained, by and large, by area municipalities.

Section 241.10 provides for the sharing of telephone and telegraph gross receipts taxes to Metro corporation and the school boards, just as they are now.

Section 241.11 establishes the instalment dates for payment in lieu and telephone and telegraph gross receipts taxes.

Section 241.12 is a transitional provision to clarify the status of 1992 surplus or deficit amounts of area municipalities.

Section 241.13 provides authority to modify the conservation authority cost-sharing formula in the event the reassessment distorts Metro corporation's share.

Bill 94 has been drafted on the basis of concentrating only on those changes to the Metro act that are required to implement the interim reassessment plan. No housekeeping changes are being entertained at this time. The legislative amendments may appear somewhat extensive, but property taxes raised from the metropolitan area in 1992 exceeded \$4 billion, and accordingly it's essential that the provisions are clear and cover all important contingencies.

I'd like now to call on my colleague from the Ministry of Revenue, Michael O'Dowd.

**Mr Michael O'Dowd:** Mr Chairman, there is some material that I believe has been distributed to the members of the committee which outlines in general terms—

**The Chair:** Is that the material that's in the briefing book? Do you know which tab that might be? We have a number of things. There is one entitled Metro's Interim Reassessment Plan.

**Mr O'Dowd:** Property Assessment Program: Metropolitan Toronto Reassessment and Market Value is the title.

**The Chair:** Just one second while we make sure which document Mr O'Dowd is speaking to, just so everybody knows. We have a number of things in our book. I just want to make sure we're all singing, if I can put it that way, from the same hymn book.

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**Mr Mills:** Have we identified where it is?

**Mr O'Dowd:** It's the document I provided to Mr Richmond entitled Property Assessment Program: Metropolitan Toronto Reassessment and Market Value.

**The Chair:** This is the material, in the package that the researcher provided. If members would look in their kits, there is information that was provided by the research officer from the legislative research service, Mr Richmond, and that is what you're referring to.

**Mr O'Dowd:** With the committee's indulgence, I'd like to use that as the theme document for my presentation.



**The Chair:** Fine, okay. Everyone has a copy? Please go ahead.

**Mr Mills:** The fat one.

**The Chair:** The memorandum to me from Mr Richmond. Please go ahead.

**Mr O'Dowd:** The purpose of my presentation is to put in context the basis of the assessment base which has been created to provide for Metropolitan Toronto's reassessment plan. As the parliamentary assistant indicated in his introduction, the decision was made by Metropolitan council to proceed, or to ask the government to proceed, with the preparation of an assessment impact study, and the Minister of Revenue, the Honourable Shelley Wark-Martyn, by letter to Alan Tonks, the Metro chairman, in April 1991 undertook to produce that study.

The study was to prepare an estimate of 1988 market value for all properties within Metropolitan Toronto using an assessment by property class approach. If I can clarify for the purposes of the committee's understanding, there are three types of reassessment packages currently offered within Ontario: reassessment by property class for local municipalities, reassessment at full market value for local municipalities, and then reassessment of upper-tier jurisdictions, counties or regions, such as Metropolitan Toronto, using either one of the two bases, by class or at full market value. The foundation of the plan that Metropolitan Toronto council has undertaken and is seeking legislation to introduce is reassessment by property class for the entire metropolitan area.

The base year used for the reassessment was 1988. The point of establishing a base year is to allow for the transition from the existing assessment bases within the jurisdiction, in this particular case Metro Toronto, which is using the 1940-based values that were implemented when the Metro federation was created in 1953, to a more current basis for assessment. The base year being used is the base year which is on offer for all municipalities at this point in time by the ministry, and that is 1988 market. The use of 1988 was confirmed by Metropolitan Toronto in its resolution to the Minister of Revenue in 1991.

If I could clarify for the committee the definition of the "base year," what does it mean? It does not mean the actual sale of an individual property. I draw to the committee's attention the fact that we have approximately 550,000 or 560,000 properties within Metropolitan Toronto and there are approximately 1.1 million separate assessments of parcels occupied by individuals as residences or as business enterprises or as industrial enterprises.

To develop market value requires the analysis of market activity. All the values that have been used in the interim study presented to Metropolitan Toronto are based on an analysis of market activity that took place in 1988, and also in 1987 and in 1989. The need to review what I would term the shoulder years, 1987 and 1989, is critical to ensure that whatever value is determined as representative of 1988 is a reasonable measure of the trends of the market at that point in time.

I would remind the committee that not all properties sell in the base year of valuation. Therefore it is necessary

to develop a process whereby the activity demonstrated in the market place when properties do sell can be applied with fairness to the properties that have not sold. The basis of that process is the establishment or the analysis of the market transactions that have taken place, the evaluation of the characteristics of the properties that are associated with those market values as evidenced in transactions between buyers and sellers, and then the exporting of those principles of value to the properties which have not sold, using the same characteristics that a property purchaser would use in the marketplace.

In the case of residential properties, if I can illustrate that, typically property purchasers look for amenities provided by the property in terms of size, the number of bedrooms perhaps, other facilities and the location. These are the characteristics which are then used by assessors in attempting to establish a 1988 market value based estimate of the value of those properties which have not sold. The analysis of the market transactions which take place then provides them with information on neighbourhood and area levels for different types of property that they can then use to establish a standard, typical estimated selling price for properties which have not actually been exposed to the market. That process is used for single-family homes.

In developing the values for properties which did not sell, the assessors used an estimate of replacement cost plus an estimate of the land value of the properties for all properties. These were applied universally. The analysis of sales took place and the properties that sold were, as I said, categorized and the results of that analysis were then applied against the properties which hadn't sold to determine if the estimate that had been developed was in fact reasonable. If it was not reasonable, then adjustments would take place to allow those estimates to more closely reflect the activity that's evidenced by transactions in the marketplace.

Members of the committee will recall that 1988 was a particularly active year in the real estate market, and there was a significant amount of evidence available to the assessors to use in the evaluation and the determination of their value estimates.

With respect to multiple residential properties, which are apartment buildings, conventionally, the market value for these properties is calculated, again, using market activity where it exists in terms of sales of apartment buildings and on the basis of the rental income of apartment buildings related to the value. If an apartment building sells in the base year or in the other two adjacent years, the shorter years, then the assessment will tend towards the value as indicated by the sale prices.

However, there has to be consistency that all properties are treated in the same manner, so therefore there is a need to evaluate the income generating potential of the apartment building expressed in terms of the rental income to the owner, and the value developed depending upon that relationship, to the extent that we are able to determine that there is a consistent relationship between the market as evidenced by sales and the income as evidenced by rental capacity. That, then, is used to establish consistent standards for the evaluation of similar apartment buildings. We

are always attempting to bring things into line of a similarity of physical structure or a similarity of type of facility.

The replacement cost may be used in some areas to estimate market value of smaller multiple residential buildings. In the Metropolitan Toronto plan, "multiple residential" in a building is classified as three residential units and over. Traditionally, the smaller buildings, the three-, four-, five- and six-unit buildings, will have their preliminary estimate of market value calculated on sales and on replacement cost of the structure, plus land values, similarly to single family residences. Typically, this is because there is not sufficient or adequate information to allow for an analysis of income generated by these properties to be consistently applied to all properties within the class.

Commercial property can be conceptually classified into two groups. Office buildings and shopping centres are one group, and there are other commercial properties. I draw the distinction only in terms of the techniques that are used to develop market value estimates for these types of property. In the first group, office buildings and shopping centres, the estimated market value is calculated on the capitalized value of the net income of the property. An important point for the members of the committee to recognize is that we are not concerned here with the income of the individual businesses within the property; it's the value generated in terms of rental income to the landlord or the owner of the building.

There are some sales of properties in this particular class in the base year. These are used as checkpoints or standards for comparison so that there are consistent standards applied to other properties in that class which did not sell in the base year.

The balance of the commercial property class, stores on the major arteries, gas stations and places of that nature, are typically valued according to the replacement cost plus a land value component. The replacement cost is developed according to standards established for the ministry, which are universally applied across Ontario, and the land values will be drawn from transactions, sales of property which actually took place within areas of Metro Toronto, which will then be analysed to determine their validity as standards to be used for the evaluation of the balance of the properties which did not sell, in much the same way as we value the residential property.

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Industrial properties, split into two generic categories: Again, the categorization is only to demonstrate the methodology that we use to develop market value estimates. Factories and plants, manufacturing facilities in the traditional sense, are valued on replacement costs. They do not sell very frequently, and when they do sell there are usually characteristics associated with the transfer of the property which are related to factors other than the real property itself. The approach is a common standard which is accepted by the appraisal industry. This is not just a feature that is used by the property assessors in the Ministry of Revenue.

The balance of the industrial class, industrial malls, are typically set up as income-generating facilities. They are developed to generate an income stream from the real

property to the owner of the development and are valued based on capitalization of their net income where that information is available to us.

There are other classes of property, if I could briefly address them. They're not covered in the briefing material, and they deal with things which are either statutory in nature or which have specific statutory direction. I refer here to rights of way for railway properties and for utility rights of way for Ontario Hydro. I refer to public utilities. In this case, public utilities are defined as the properties used for traditional public utility services, sewer and water treatment plants and garbage transfer stations. They also include the facilities of the Toronto Transit Commission within Metropolitan Toronto.

The value of these properties by the various pieces of legislation that govern them—the Power Corporation Act in respect of Hydro and the Assessment Act in respect of the railway rights of way and the Public Utilities Act—requires that they be valued according to the value of abutting lands. What this means is that they do not get assigned to a class. They do not get called industrial, commercial or residential. Their value is a function of the land adjacent to their particular installation, so if you conceptualize a right of way that runs right across Metro Toronto, it will run through residential lands, commercial lands and industrial lands. To the extent that the adjacent lands to that right of way have a value which is industrial, residential or commercial, the amount of the right of way that runs through that particular area will attract a value which is the average value for commercial, residential or industrial lands in that area.

In summary, the value of these utility types of properties or these rights of way is an amalgam of the values that are generated by the land which is not used specifically for these utility purposes.

That covers the general thrust of the reassessment approach. In the event that the legislation passes and Metropolitan Toronto reassessment is to be implemented, the Ministry of Revenue assessment program will undertake a number of activities in support of the reassessment, the most important of which will be the notification to all owners and tenants of property within Metro of what the new assessed value is.

If I can just clarify and pick up on one point that Ms Bardecki mentioned earlier, the reassessment by property class assigns a level of value which reflects the current relationship between 1988 market value and the assessments of properties in that class, and that's called a class factor. The class factor is applied to all property within a class right across Metropolitan Toronto, and what it dictates in conventional terms is the level of market value that we're assessing at.

In the residential case, we're assessing at approximately 2.2% of the 1988 market value. All residential property in Metro will be assessed at 2.2% of its 1988 market value. By so doing, it ensures that the total assessment of residential properties before and after the reassessment will remain approximately the same, subject only to arithmetic process and rounding errors. That means that conventionally the burden that will be borne by that class will be the same before and after the reassessment. The



same principles apply to both industrial and commercial classes—the levels of value are somewhat different—and the same principle would also apply to the multiple residential class. There are factors established for each of those classes.

If the ministry is called upon to develop or to deliver assessment notices to taxpayers with the new values in place, those notices will contain the 1988 market value estimate for the property. It will contain the class factor. It will contain the arithmetic result of the application of the class factor to the assessment. In other words, it will tell the individual what his or her actual assessment will be, based on the application of the 1988 market value in a reassessment by property class standard, the same process that is used in the other regions and counties across Ontario.

It will also contain information with respect to the appeal rights of the individuals, how they may challenge that appeal, and it will also contain information in an insert form about the opportunities taxpayers will have to discuss the details of their evaluation, the methodology that was used and the specifics of their own evaluation with representatives of the assessment program.

We intend to hold information sessions throughout Metropolitan Toronto if the legislation proceeds. We will hold them for an extended period of time. We are looking at approximately five weeks' worth of total hearing time, probably at a ward-by-ward basis for the Metropolitan area, but the final details have not yet been determined and obviously will depend upon staff availability, the time availability and the facilities we can claim access to.

Typically, the information sessions operate from 1 in the afternoon until 8 or 9 o'clock in the evening to allow people who are working during the day to attend, and of course information would be available through the telephone system and telephone inquiry to the regional assessment offices directly.

Upon roll return, if information has been brought to the attention of the assessor that indicates the preliminary estimate of value that has been placed on the assessment notice the taxpayer has received is incorrect in any way, and there is an agreement about what it should be, then obviously those corrections will be made before the assessment roll is returned to Metropolitan Toronto and amended notices will be issued, and the attendant appeal rights will still follow.

We will also advertise in the media the locations where information can be obtained about the information sessions that we publish. Then, if the taxpayer remains unsatisfied, having had the opportunity to discuss the evaluation with an assessor, he or she will of course have the right to appeal to the Assessment Review Board under the provisions of the Assessment Act.

The information process and the delivery of assessment notices and the custody of assessment information lies with the regional assessment officers. There are four of them within Metropolitan Toronto serving combinations of the area municipalities. Their telephone numbers are available in the telephone book and are on the materials the committee has been provided with.

**The Chair:** Thank you. Anything further?

**Mrs Bardecki:** Nothing further. We can answer questions now.

**The Chair:** All right. We'll turn to questions. The clerk is handing out one final document for us all. To begin with questions, I have Ms Poole, Mr Owens and Mr Turnbull.

**Ms Poole:** To begin my questioning, I'd like to ask some questions of the parliamentary assistant.

On November 4, 1992, in the *Toronto Sun*, Mr Cooke is quoted as saying that all other municipalities have the power to introduce MVA.

"Do we give Metro the same powers that everybody else has or do we say...we're going to intervene and do something quite differently?"

"There's a fundamental question about whose responsibility this is. Certainly, my view is it's the responsibility of Metro council and that Metro should carry out that responsibility."

This was followed up by a statement in the House on, I believe, November 5, when Mr Cooke said, "It is clear that Metro council is responsible for its own deliberations and decisions. A duly elected council has reached a decision after considerable debate and compromise, and the province must respect that this is the responsibility of local councils."

He then goes to say—in the same statement, mind you: "The legislation will not give Metro council the power to implement full market value...in 1998. It will, however," require "Metro to seek provincial approval" before any significant tax reforms are implemented.

Mr Parliamentary Assistant, can you please tell us, is property taxation and assessment a municipal responsibility or a provincial responsibility?

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**Mr Mills:** I think that in deference to my colleague Mr Cooke, who said all these things, the best place to get your answers is right in the Legislature this evening when he'll be there. I don't intend to answer for the minister. I am going to say again that this is a forum to listen to the technical arguments and, later on this evening, to listen to public presentations that we are here to listen to. If you want to debate what Mr Cooke said or did not say, my suggestion to you, with respect, is that you take those considerations and concerns into the Legislature this evening when he will be there. But I have no intention at all, whatsoever, of answering what Mr Cooke may or may not have said. That's not my responsibility and I don't intend to respond to the bait.

**Ms Poole:** Mr Chair, I find this totally outrageous. The purpose of the committee hearing this afternoon was to speak to the ministry and the minister about this assessment plan. The minister has said very contradictory things in the statements he has made. If the committee is to consider where to go on this legislation, we first of all must understand where the minister is coming from. The parliamentary assistant has the nerve to tell me to go up to the Legislature to ask him questions when he well knows that tonight there will be no time for me to ask questions of Mr Cooke in the Legislature. That is not how it works and he



knows that. This is the very reason why I asked for the minister to be here.

Interjection.

**Ms Poole:** I can't believe this. This committee is sitting to decide on the direction of legislation and we have members of the peanut gallery over there saying that we shouldn't be entitled to ask questions of the minister, particularly when the minister has publicly said very different statements.

Mr Chair, does this mean that the parliamentary assistant is going to refuse to answer all of the questions I have here for the Minister of Municipal Affairs? Because this is a complete waste of time.

**The Chair:** Ms Poole, I can't determine how the parliamentary assistant will answer your questions, but you are certainly free to put them.

**Ms Poole:** It is totally inappropriate to ask a bureaucrat to respond to comments that the minister has said that are of a very political nature. So what you are saying is that there is nowhere in this forum that we can get answers.

**Mr Mills:** He's going to be here.

**Ms Poole:** He's not going to be here to answer questions.

**Mr Wiseman:** On a point of order, Mr Chair: If all we are going to deal with is haggling over what the minister said or didn't say, is it possible that we could allow these people to go, since they have come here to answer questions on the technical aspects of this bill? If that is not what we are going to do, then perhaps we should allow these fine people to go home.

**The Chair:** I have a list of those who wanted to put questions. I am going to follow that. I suspect that some of those questions may be directed at the officials from the ministry. Ms Poole, do you have any?

**Ms Poole:** Since I am not getting answers from the government, from the ministry or the minister's parliamentary assistant, and since the minister has no time allocated for us to ask these questions, then I am going to have to ask these of the bureaucrats, which I feel is quite inappropriate.

Would any of you like to comment on the fact that the statements made by the Minister of Municipal Affairs are totally contradictory? On the one hand he says that this is a local municipality's—

**Mr Mills:** On a point of order, Mr Chair: I think it is outrageous to put political questions—

**Ms Poole:** Well, you won't answer them.

**Mr Mills:** I am not the minister. If you want to ask the minister, you speak to the minister.

**Ms Poole:** The minister isn't here because you refuse to have him here.

**Mr Mills:** You know where to go.

**The Chair:** Order, please.

**Mr Mills:** You're not going to put words into my mouth.

**Ms Poole:** What a joke.

Interjections.

**The Chair:** Order, please. The Chair is recognizing Ms Poole to pose questions. The answers that are provided will be determined by the individuals who are making those answers. Would you put your question, Ms Poole.

**Ms Poole:** My question is, according to the minister, the Ministry of Municipal Affairs or the Ministry of Revenue, is assessment the responsibility of the municipality or is it up to the province to take on that responsibility?

**Mrs Bardecki:** I'm not quite sure I understand your question, but I will attempt to answer it. The Municipal Act and the Regional Municipalities Act give upper tiers like Metro Toronto the authority to implement or to ask for reassessments of the types Mr O'Dowd outlined. A lot of Bill 94 simply mirrors what is in the Municipal Act and the Regional Municipalities Act, specifically sections 241.1 to 241.11 and 241.13, very much like what is in the Municipal Act and the Regional Municipalities Act. But because of its unique structure and the unique phase-in requests of the municipality of Metro Toronto, it needs something more than what is in the Municipal Act and Regional Municipalities Act.

As I said, Metro Toronto wants to impose certain caps on increases and limit decreases to finance those caps on increases. That's something different that could not be done by all the other municipalities in Ontario. The need for that has been determined by Metro as a result of all the hearings it held and discussions it had on its potential reassessment plan.

Also, there are some other aspects. Metro Toronto has a unique structure as far as its school board system goes, and so there had to be some special features in Bill 94 that aren't in, say, the Municipal Act and Regional Municipalities Act, because Metro is the only jurisdiction that has a two-tier school board arrangement, with a metropolitan or upper-tier equivalent board and then boards of education representing the lower-tier municipal areas within. Different things had to be done in Bill 94 because of that unique feature.

**Ms Poole:** Perhaps it would help—

**The Chair:** Ms Poole, just before your next question, I see a fourth person at the table. I wonder if you would be good enough just to introduce—

**Mrs Bardecki:** I'm sorry, Mr Chairman. This is Ron Skinner from the municipal finance branch in the Ministry of Municipal Affairs.

**The Chair:** Thank you. That's just for Hansard.

**Ms Poole:** Perhaps it would be helpful if I phrased the question in a different way. In 1970 the province took over the assessment function for the purpose, the avowed purpose at the time, of bringing the entire province under the umbrella of market value assessment. At that time they devolved the power to the local municipality; ie, in this case the city of Toronto is the local municipality. Metro is the upper-tier or regional municipality. For many years it was done at the local level, until the mid-1980s, and that was the first time—

**Mr Grandmaitre:** The mid-1970s.

**Ms Poole:** No, the mid-1980s; it was in the mid-1970s that they started doing it on a regional basis.

My question for you is, not even talking about the unique nature of this plan, can you tell me of an instance where an assessment plan has been imposed on the local municipality through the regional municipality's request when the local municipality is of the size of the city of Toronto or even approaching that?

**Mrs Bardecki:** I'm really not up on the populations of the cities of Ontario, but I don't believe there is another local jurisdiction the size of the city of Toronto. But it's been our practice in the past, and I believe the practice of the Ministry of Revenue, that where the upper tier has asked for a reassessment that reassessment has been implemented. Mr O'Dowd, would you like to—

**Mr O'Dowd:** That's correct. The reassessment has been implemented in a number of regional municipalities, none of which of course approaches the size of Metropolitan Toronto, but in the regional municipalities legislation the resolutions are those of regional councils; they're not those of area municipalities. Therefore, I think it's very difficult for us to evaluate whether or not there has been, as you categorized it, Ms Poole, a single municipality that has not gone along with the resolution.

If it were in a county jurisdiction, then we could probably answer the question, because there are votes by area municipalities and by the county jurisdiction; both have to take place before the resolution can be submitted to the Minister of Revenue to proceed with the reassessment. There have been instances where individual municipalities in county jurisdictions have decided that they did not want to proceed with reassessments, but the majority of the municipalities and the majority on the county council have decided that they do wish to proceed.

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**Ms Poole:** Sudbury was a bit of a different situation, and the city of Sudbury basically got bribed with \$24 million to forgo its objections to market value. Other than that, you're talking about Haldimand-Norfolk, where obviously the local municipality was extremely small. Certainly, I would ask you if there are any other instances where a large local municipality that is opposed to the assessment plan has been overridden by the regional municipality with the provincial approval.

**Mr O'Dowd:** You're right. I can't answer the question because, as I say, the votes that I receive indicating that there's a desire on the part of regional council to proceed do not give me a breakdown by municipality. It's a regional council vote. The other areas that have considered and implemented are Ottawa, Waterloo, Sudbury you've pointed out and Haldimand-Norfolk you've pointed out.

**Ms Poole:** And in Ottawa, I understand all municipalities voted in favour although some of the votes were quite narrow.

**Mr O'Dowd:** I don't know what the individual municipal breakdown was, but the result was a resolution of regional council to proceed.

**The Chair:** Ms Poole, I have a number of people. I wonder if we could go around, and then we'll come back.

**Mr Owens:** I'd like to thank the ministry people for their briefing this afternoon. I have a couple of specific questions for Mr O'Dowd. In terms of the difference between the assessment in your commercial property section on page 3, if you have a building, for instance, like the Scotia Plaza which has most recently come on stream with essentially a glut of office space in the downtown core, and they purposely price their rent at a level at which to entice tenants and then the assessment is done based on that income, is that ever reassessed at some point, or when is that reassessed?

**Mr O'Dowd:** Under the current assessment system the property would be assessed at the time it first comes on stream, at whatever point that was. I don't know the details of that specific property. The reassessment would then take place at the next opportunity for a municipal reassessment, which is where we're at today: We're considering municipal reassessment. Other than that, the only other opportunity for a reassessment would be in the event that there was an appeal against the assessment established by the assessor through the Assessment Review Board and the Ontario Municipal Board.

**Mr Owens:** That would have to be done by the property owner, or could that be done by a resident of the city of Toronto, for instance?

**Mr O'Dowd:** The current Assessment Act permits anybody with the appropriate notification requirements to appeal anybody else's assessment, but there are fairly stringent notification requirements for all third parties and all parties involved. But traditionally the appeals are lodged by building owners or their representatives or by tenants within the individual buildings and their representatives.

**Mr Owens:** So in terms of your last paragraph, what would be an example of a unique commercial property?

**Mr O'Dowd:** The CN tower. SkyDome is another one.

**Mr Owens:** I guess I'm just struggling to understand how this assessment process works in terms of establishing a fairness. Would a strip mall also be classed as a shopping centre, or is that a collection of stores?

**Mr O'Dowd:** It's a collection of stores, if you want to categorize it that way. They would primarily be valued according to replacement costs plus land values.

**Mr Owens:** As opposed to the shopping centre, which would be based on income.

**Mr O'Dowd:** It's valued on the income generated to the building owner.

**The Chair:** Mr Turnbull.

**Mr Turnbull:** First of all, while I stepped out, I want to say I'm very disappointed to hear that the parliamentary assistant refused to answer anything which he considers to be a political question.

**Mr Mills:** That's not true.

**Mr Turnbull:** Whether you like it or not, this process is to examine what the government is doing and we're



examining legislation, and it seems reasonable that we should get answers to the questions. The government is trying to have it every which way. For example, in the 1984 policy convention of your party, you voted to be against MVA for any further expansion of MVA in the province, and it has always been trumpeted by your party that policy decisions in your policy conventions were binding on the party. Furthermore, several ministers and other members of your party who are elected today campaigned very clearly as being against MVA. What happened to them in this interim period, and why are they being gagged and told they have to vote with this—

**Mr George Mammoliti (Yorkview):** Mr Chair, point of order: What's the party got to do with governing the province? I mean, these are questions for the party—

**Ms Poole:** Look, George, if you don't know—

**Mr Mammoliti:** If he has something to take up with the party, perhaps he could write the secretary a letter, send them a memo—

**The Chair:** Each member has a right to pose his or her questions. Mr Turnbull is simply posing his questions and the parliamentary assistant may answer as he sees fit, but it is Mr Turnbull who has the floor.

**Mr Turnbull:** My question is, given the fact that these ministers campaigned on a platform that they were going to be against MVA, what has happened to change this situation? Of course, look at the notes you're given from somebody else.

**Mr Mills:** Excuse me. I have a right to consult with my assistant. I have that right, I hope. This is not an MVA plan.

**Mr Turnbull:** Yes, it is.

**Ms Poole:** You'll get some disagreement on that one.

**Mr Turnbull:** What is it, then?

**Ms Poole:** It's not unit assessment.

**Mr Mills:** Property tax assessment is a local municipal and/or a provincial responsibility. It's both.

**Mr Turnbull:** Okay, but this is MVA.

**Mr Mills:** The province sets the framework and the rules, and the local council has the right to determine the key issues within that framework. That's what it is about.

**Mr Turnbull:** That isn't answering my question. You said this is not MVA. This is MVA.

**Mr Mills:** I don't intend to get into a political argument with you here, Mr Turnbull. I don't think this is the place.

**Mr Turnbull:** It's not a political argument. I'm asking what it is.

**Mr Mills:** You're asking me about people, that the ministers campaigned on this and campaigned on that. I believe, in all fairness, that you were in the House and you asked these questions to those people then, and I don't see really the point in repeating all that in this forum. I'm certainly not going to answer for any person who campaigned for or against market value assessment in the last election. I don't think it's fair to ask me that. You should

have asked them, or you did ask them. I'm not going to fall for this bait.

**Mr Turnbull:** Then let me ask you this: You're saying it's not MVA. What is this?

**Mr Mills:** To be quite fair, it is a series of interim measures that we are addressing here; it is not market value assessment as such.

**Mr Turnbull:** What about the excluded class? What is that for them?

Interjection.

**Mr Turnbull:** Excuse me, I'm asking a serious question to the parliamentary assistant: What is this to the excluded class? You made the statement, "This is not MVA," so I'm asking the question, what is it to the excluded class?

**Mr Mills:** Well, it's an interim measure until down the road, five years down the road, we look at it again. That's what it is.

**Mr Turnbull:** It's full MVA for the excluded class. I don't know if you've read your briefing notes.

**Mr Mills:** I know what you mean.

**Mr Turnbull:** It is full MVA.

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**Mr Mammoliti:** Point of order, Mr Chair: I don't mean to cut off Mr Turnbull, but if I can get an indication of how long his questioning is going to be, I can get an indication of when I'm going to be put on to ask the panel a question.

**The Chair:** You're on the list. We have until 6 o'clock, and I am trying to allow each person approximately 10 minutes to put their questions.

**Mr Turnbull:** Mr Chair, since we're getting no answers from Mr Mills, I want to turn to Mr O'Dowd. I want to talk to you about the methodology you've used. Let's, for example, talk about the methodology within shopping centres; let's take the example of Yorkdale, where the small tenants are getting substantial tax increases and the large tenants, the anchor tenants, who already enjoy lower rents, are getting decreases. Can you tell me what methodology you used in that case?

**Mr O'Dowd:** The Assessment Act requires that the interests of tenants in a property be apportioned among them according to the fair market rent of the space they occupy in relationship to the fair market rent of the entire property. That's the principle that's been used for the apportionment of the values in that particular shopping centre, I believe, and all others of that type.

**Mr Turnbull:** And that accounts for the fact that they're going to pay substantially more on a 1988 assessment and there's going to be huge reductions for the anchor tenants in a 1988 assessment as compared with the 1984 assessment?

**Mr O'Dowd:** If I could clarify, there is no such thing as a 1984 assessment. We have a 1940-based assessment in place now. The shifts that take place are between 1940—

**Mr Turnbull:** You know there was a study done for 1984.



**Mr O'Dowd:** Yes, sir. There was a study done, and the study indicated our best estimate of the conditions at that time. It did not represent a full, in-depth analysis of the marketplace.

**Mr Turnbull:** Well, we're being told that this is not a full, in-depth assessment and that we don't have the final numbers yet.

**Mr O'Dowd:** That is probably true, that the final numbers are in the process of review and finalization and fine-tuning. That is a common practice, that the impact study that is presented is the best information we have available at the time it's produced, and that there is a process of fine-tuning in which values that are out of line as a result of things such as calculation errors are corrected, and information that is brought to our attention from taxpayers directly—and there's been a fairly significant amount of that since Metropolitan Toronto released the information at the beginning of September—may also result in fine-tuning of the product. There will be further fine-tuning taking place, as I indicated in my presentation, during the period that precedes the return of the assessment roll. The final numbers, I guess, will not be set until the assessment roll itself is actually returned to the municipalities, whenever that happens.

**Mr Turnbull:** In the case of large office buildings, what vacancy rates did you use? Did you use 1988 vacancy rates or were you using later vacancy rates?

**Mr O'Dowd:** As I indicated in my presentation, the information that was used to establish the market value estimates for the 1988 conditions was an analysis of 1988, plus 1987 and 1989. They were time-adjusted to bring them to a 1988 figure. This is a 1988 estimate of market value.

**Mr Turnbull:** But my question was specifically about the vacancy rate that was used.

**Mr O'Dowd:** I'm talking about all components of the capitalization of income, and that includes expense statements, the rentals and the vacancy rates and management factors associated with evaluation.

**Mr Turnbull:** Do you think those cap rates that prevailed in 1988 were sustainable?

**Mr O'Dowd:** Could you perhaps clarify your question for me, please?

**Mr Turnbull:** If there had been more product on the market, could you have sustained those capitalization rates?

**Mr O'Dowd:** I can't answer that question. I do not possess the detailed technical knowledge of the individual valuations that were there.

**Mr Turnbull:** Let us turn to residential houses. I have a particular problem in the area that I represent in that a lot of small bungalows were knocked down in 1988 and sold, and they were sold purely for their land value. The income of the people who still live in those houses adjoining them has not gone up to help them to pay—and their consumption of services is fairly low—and yet they are being taxed on the basis of this unusually high 1988 value, which was based on what a developer would pay.

My question to you is, if more product had been available, in other words, if more of the people who had these houses at that time had been prepared to sell, would those prices have been sustainable and what would have been the impact on market values?

**Mr O'Dowd:** I cannot really answer your question, because it requires me to guess the effects of the marketplace, and I'm afraid I can't attest to that. We had a significant number of sales of properties in all areas in 1988, and those were the base positions or the basic information we used to establish the analysis. What may or may not have happened, I don't really think, with all due respect, sir, I can respond to.

**Mr Turnbull:** But you keep ongoing statistics of values of houses. What happened in 1988 relative to earlier and later?

**Mr O'Dowd:** If I can interpret your question, was 1988 the peak of market value?

**Mr Turnbull:** Yes.

**Mr O'Dowd:** No, the peak occurred in 1989.

**The Chair:** Mr Turnbull, if I could just ask you to bring this round of questioning to a close.

**Mr Turnbull:** In these 1988 values, do you think there was an even increase up to 1988 right across Metro for values, or were certain areas going up more than others? And if you agree that some went up higher than others, have those that went up come down more than the others that didn't increase as much?

**Mr O'Dowd:** If I can answer the first question, yes, certain areas in Metropolitan Toronto, as is always the case, will appreciate or depreciate at rates different from other areas within Metropolitan Toronto. In respect of their relativity to 1992 circumstances, I cannot give you a clear indication. There is some suggestion that there has been a disproportionate change, but I'm not sure if that disproportionate change is in fact a reciprocal of the change that took place leading up to that peak in 1989. I cannot give that information. I do not have that information.

**The Chair:** I'm going to turn to Ms Swarbrick, who is next on the list. As can be heard in the background, we're being called to a vote in approximately 13 minutes, so I think we'll go for 10 more minutes and then we'll have to break for the vote in the House. We'll continue as soon as that vote is concluded.

**Ms Swarbrick:** Mr O'Dowd, do you know the rationale for the value of land used for hydro or railway utility purposes having been assessed as being the same as the surrounding areas? Why is there not a separate classification for the utility lands?

**Mr O'Dowd:** I would mislead you if I said I knew the exact reason. I can guess, because it's been around for a lot longer than I have. I believe it was done that way to allow for balancing, given that the rights of way are a unique type of property. They're a strip of whatever width, whether it's a railway right of way or a hydro right of way, which arguably has no market of its own but has value in use to the owner. You have to develop some way of estimating what that value might be.

The logic is presumably that, given that people are indulging in market transactions for properties which are adjacent to those rights of way, that gives you some sense, if those were available for those uses, of what that value might be. Given that it passes from one use to another use to another use as it traverses the municipality, there's a sense that if you bring them together and weight the values of the lands which are adjacent to that right of way, you have some notion or estimate of what the value in use to the owner of that property might be. It is not a perfect approach, but I believe it fairly represents the standard used on most utility right of way valuations for tax purposes across North America.

**Ms Swarbrick:** Since land is usually zoned based on its use, and if that land is being used not for commercial and not for industrial and not for residential purposes, but rather for utility purposes, would it not make sense to have a separate zoning classification for utility lands?

**Mr O'Dowd:** I can't address the zoning issue. That's an area that lies outside of my expertise and responsibility. In terms of classifications for assessment purposes, yes, you could establish a separate class if you so desired. The current legislation, we believe, does not permit that. There is litigation under way at the moment with respect to the assignment of railway rights of way to classes, where there is litigation around the city of Mississauga and our use of classes in the reassessment for the city of Mississauga for the railway rights of way.

It's questionable, though, whether, in the absence of a market and transactions for the purchase or the sale of right of way properties, there is no evidence of what that value is to the owner. To establish some value according to which the owner will pay tax or contribute to the municipal tax base, you have to use some standard, and I guess the standard always has the risk of appearing to be arbitrary, but you need some basis upon which to calculate the contribution of that particular taxpayer. The basis we use is one of the more common bases for this type of property across the country.

**Ms Swarbrick:** Thank you. Mr Braund, a quick question to you. You say in your presentation that the rent officer may join one tenant's application to that from the other units in the building in order to allow for the passing through of reductions to all of the tenants. Is that really a "may," or would they in effect do it just as a "shall" or a "will"?

**Mr Braund:** The intention would be to add the other tenants in the building so that all of the issues may be dealt with together. In this particular case it's a fairly straightforward calculation, so it would be most beneficial to all parties to deal with it all at once.

**Ms Swarbrick:** So in effect that's a "will," is it, that they will do that?

**Mr Braund:** In the circumstances of an extraordinary operating cost decrease, all other units would be added. The "may" is because there are other things that can be considered in the same kind of application where it might be more discretionary.

**Ms Swarbrick:** But could tenants generally rest assured that if one of the tenants in the building leads by filing that application, then the rest of them are okay and it will automatically take effect for them?

**Mr Braund:** That is our intention.

**Ms Swarbrick:** Thank you. A question for both Mr O'Dowd and Ms Bardecki: How long have each of you worked for the provincial government in your present or similar jobs?

**Mrs Bardecki:** I've been with the Ministry of Municipal Affairs for four years now.

**Mr O'Dowd:** I've been with assessment for 22 years.

**Ms Swarbrick:** Based on your employment with the provincial government, do you have any way of knowing whether or not the Liberal government before us was looking favourably upon developing enabling legislation to permit Metro council's reassessment of property taxes in consideration of more current market values?

**Mr O'Dowd:** The Minister of Revenue, in 1990, wrote to Chairman Alan Tonks indicating the willingness of the government to proceed with the preparation of an assessment impact study for Metro's consideration. If memory serves me correctly, the date of the letter was some time in January of that year.

**Ms Swarbrick:** January 1990, so that was a Liberal Minister of Revenue requesting that.

**Mrs Bardecki:** Mr O'Dowd's response covers my memory of the situation as well.

**Ms Swarbrick:** So it's fair to conclude that the Liberal government before us was heading towards doing a similar thing. Is that correct?

**Mr O'Dowd:** To the extent that Mr Mancini's letter to Chairman Tonks indicated an undertaking to proceed with the preparation of an impact study, I guess the answer to your question is yes.

**The Chair:** It is six minutes to the vote. Rather than starting on another round of questions, this might be the appropriate time to adjourn. I apologize, but if I could ask our witnesses to remain, once the vote is over we will be back and continue till 6 o'clock. So until the Chair and the other members return, we stand adjourned.

The committee recessed at 1723 and resumed at 1738.

**The Chair:** We could reconvene the committee, the vote having been held. I want to thank everyone for still being here at our return. I have next on the list Mr Mammoliti.

**Mr Mammoliti:** My question was for Mr Braund. I'm wondering whether he—

**Mrs Bardecki:** He'll be back in a second.

**Mr Mammoliti:** I wanted to make a comment anyway, in that Mr Turnbull had earlier asked a question in terms of difference between what the government's saying and MVA. I'd like to say for the record that I've always been an advocate for meaningful change in the property tax scheme and I will continue to be an advocate of that. The current system, in my eyes, isn't working. This, to me,



isn't perfect, but it's fairer than what we have at this particular point. I thought I'd say that for the record.

On that note, I see Mr Braund is back. First of all, I'd like to find out how many tenants we have in Metro currently.

**Mr Braund:** There are about 350,000, I believe.

**Mr Mammoliti:** I'm familiar with the home owners. I understand that most of the home owners in Metro will benefit, will get a reduction in their property taxes with this plan. Can you give me an indication of how many of the 350,000 tenants in Metro will benefit from a reduction in rent, either through application or the automatic form you were telling us about earlier?

**Mr Braund:** We believe that figure will approach 200,000. That's in terms of units, not in terms of tenants, obviously.

**Mr Mammoliti:** Well, I think it speaks for itself. The majority of tenants will also benefit with the current plan, am I correct?

**Mr Braund:** Absolutely.

**Mr Mammoliti:** In my particular area, the majority of people will benefit from this, including the business sector; \$17,000, \$18,000 reductions in my particular area. They're still not happy. In your eyes and in your experience, is this a fair compromise? I'm asking the panel this.

**Mrs Bardecki:** I think this is a judgement call. The government is relying on the elected government in Metro, which had a number of hearings and heard a number of deputations and reached a compromise that it felt was fair. That was what was presented to the government, and on that basis the province is putting forward enabling legislation.

**Mr Mammoliti:** Let's go back to the tenants for a second. For the record, I'd like to ask again: Can you clarify for us how the automatic reduction plan, rent control, works? How many of the tenants will get an automatic reduction, or increase, for that matter?

**Mr Braund:** There are no automatic increases. Landlords must apply in order to have their maximum rents increased. We believe about 175,000 units could have the automatic rent reduction of the 200,000 I spoke of. Basically we're looking at a division by the size of the building. What Metro has asked us to do is to look at the buildings that have three or more units, which are the property classes 1 and 2, as Mr O'Dowd explained them.

What we've not had in the past is rent registration for the three- to six-unit buildings, and we intend to do as much in the area of rent registration as possible early in 1993 so that we have those rents available as well.

So from three units and up, to the very largest complexes in Metro, the way it would work is that we would get the information from Mr O'Dowd's ministry by way of computer tapes. We would compare that with the computer records in the rent registry. We would calculate the tax savings using the mill rates for the appropriate municipality in which a building was located, on the old and new assessments. We would then take that calculated tax saving and divide it by 12 to reflect the monthly rent adjustment

that should be made. That would then reduce the maximum rent in the rent registry.

We'd pass the information, at the end of all of that, to Metropolitan Toronto, which is required by our legislation to advise the landlords and tenants of the amount of the maximum rent reductions.

Then we have an enforcement problem. Some landlords will probably not follow the legislation when they're told to do so or will not immediately do so, so we will have to follow up with those landlords and ensure that they do obey the law.

**Mr Mammoliti:** Okay. Let me just wrap all of this up for a second. The majority of home owners in Metro will benefit in terms of reduction with this plan; the majority of the tenants in Metro will benefit through the form of an automatic reduction in their rent. Wrapping it all up, the majority of the people in Metro benefit from this plan. Am I correct?

**Mr Braund:** In terms of random impacts, which is all I can speak to, the advantage is to the tenants to some degree.

**The Chair:** Mr Grandmaître, and then I have Dr Frankford. There's a little bit of time. I'll try to squeeze in two others.

**Mr Grandmaître:** As a follow-up, landlords who will qualify for a tax decrease hopefully will pass those on to the tenants and they will rely on the rent registry, right?

**Mr Braund:** Landlords who want the increase must apply to the—

**Mr Grandmaître:** No, no, I'm talking about a decrease.

**Mr Braund:** In terms of the decrease, the automatic ones are done by the rent registry. The ones that are done by application are done by our local offices in the various areas of Metro.

**Mr Grandmaître:** Tell me about the land registry in Metro. Is it up to date?

**Mr Braund:** The land registry or the rent registry?

**Mr Grandmaître:** Rent, I'm sorry. The rent registry, not the land. Is it up to date?

**Mr Braund:** Yes. It has over 700,000 rental units for the province and we have records right up to the end of the Residential Rent Regulation Act, which is only three months ago. We've been scrambling to try to bring into place the changes that have been required by that legislation, but basically there hasn't been a lot of activity yet under the Rent Control Act because people have been making their applications and we're proceeding through the time lines to orders and so on.

**Mr Grandmaître:** But the rent registry has been in place for a couple of years now, more than two years?

**Mr Braund:** Yes, and it's only within the last year that it has come up to date, if that's the point of your question.

**Mr Grandmaître:** If this plan is implemented, what guideline will landlords and, for instance, Metro use to figure the decrease?

**Mr Braund:** Our intention was not to use an across-the-board guideline as we do for permitted increases each year. It's to figure out specifically for each property, and even within it for each unit, how much the tax saving is and turn that into a rent decrease. We're not just taking an across-the-board 1% decrease in rents or something like that.

**Mr Robert Frankford (Scarborough East):** Can you explain to me about the valuation of vacant or derelict land?

**Mr O'Dowd:** Vacant or derelict land. I'm not quite sure what derelict land is. Is there a specific category of land—

**Mr Frankford:** Land awaiting development.

**Mr O'Dowd:** Parking lots. Vacant land is assigned to a class of property depending upon its zoning, primarily. If it's zoned commercial land, then it would be looked at as commercial land. To the extent that there are sales of commercial parcels in and around a specific area, those will provide the primary basis for establishing the value.

In the event that there is no commercial activity, which is extremely rare in terms of vacant land particularly—there is recent history—then you move further afield from that specific site until you can find some evidence that may give you a trend and then look to other relative levels of commercial property between those two areas to determine whether where you eventually find sales activity is representative of the area you are studying.

Another method may be used, less so with commercial properties than with residential, to evaluate the land component of improved properties and develop estimates of land value by taking building values away from sales. If a property sells for \$1 million and the building can be estimated to be worth \$250,000, then there's imputed land value of \$750,000. That type of approach would be undertaken. The results of a fairly significant amount of analysis would have to take place to then create a basis of valuation of the vacant land or the unimproved land.

**Mr Frankford:** You didn't want to make any judgments on the relative ups and downs from year to year, but it would seem to me reasonable that in a speculative market undeveloped land goes up faster and in a depressed market it would go down more.

**Mr O'Dowd:** That's probably a reasonable assumption.  
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**The Chair:** Two final questions. Ms Poole and Mr Turnbull.

**Ms Poole:** Since I don't think the parliamentary assistant would either be willing or able to answer this, I'm going to go to Mr O'Dowd from the Ministry of Revenue. We can agree this is not full market value assessment, but is this a market value assessment plan?

**Mr O'Dowd:** Ms Poole, if I could distinguish between the assessment and the tax plan, because they are two different things in my mind, the assessment base that we have provided to Metropolitan Toronto and which will be used to support Metro's tax plan is a market value-based assessment system in the same manner as all other market value-based assessment systems that have been implemented in Ontario over the last 10 years in the other 700-odd municipalities.

The point of argument, I suppose, comes then in terms of what effects the Metropolitan Toronto interim tax plan will have on that basic assessment system that may create something different from that which would be expected as a result of proceeding with a reassessment in a traditional sense anywhere else in Ontario. In that sense, I really couldn't give you an answer as to whether it is or is not. It is different from that which would normally be expected to happen as a result of implementing a reassessment based on market value under the Assessment Act anywhere else in Ontario.

**Ms Poole:** I think the short answer is: Yes, it is a market value-based assessment plan. Correct?

**Mr O'Dowd:** The assessment component of it is.

**Ms Poole:** Following on that point, okay, so we don't have full market value assessment, and yet within the next five years we're going to have houses on the point of sale that will go to full market value; we will have vacant lands at full market value, including railway rights of way, GO Transit, Hydro and municipal parking. They'll all be at full market value. Expansions and additions to businesses are not covered under this particular plan. New construction will all be under full market value without a cap.

The final thing, and one that is very important and has not been raised right now, is that I have been talking to people within the Ministry of Revenue, and the questions I asked were about new businesses. We're not talking about a scenario where one business is sold to another business and there's a transfer; that clearly would be capped. We're talking about a business closing down, moving off of a property, that building being vacant and then a new business moving in. According to the information I have from sources within the Ministry of Revenue, the business tax for that new business would not be capped but would be on full market value.

So you would have houses on the point of sale, new construction, vacant land, expansions and additions, new businesses—and in fact businesses that move would again have their business taxed under full market value. What are the estimates of the Ministry of Revenue as to what proportion of Metro will be valued under full market value at the end of five years?

**Mr O'Dowd:** There are no estimates in the Ministry of Revenue. If I could maybe put one point of clarification, you use the term "full market value." In my presentation I drew a distinction between full market value as a basis for taxation and assessment by property class. In fact, what we have is assessment by property class, not conceptually full market value.

**Ms Poole:** Full section 63, then.

**Mr O'Dowd:** I'm reluctant to use sections that don't exist, because that always creates a problem in trying to track which one we refer to; if we can refer to it as reassessment by property class.

**Ms Poole:** Pure market value in its purest form wouldn't have the four different classifications.

**Mr O'Dowd:** That's correct.



**Ms Poole:** But I am talking about what the common understanding is of full market value, which means a section 63 under market value and at the estimated rate of what their market value would be, which I am referring to as at full market value. So the Ministry of Revenue has not done any analysis of what proportion would be valued over the five-year period?

**Mr O'Dowd:** No.

**Ms Poole:** So you have any estimates based on houses that have been sold, say, over the last five-year period? What proportion of houses were sold within Metro?

**Mr O'Dowd:** We have figures that give us the transaction rate of all properties selling over the last five to 10 years, if we like. The problem we have is in establishing a solid basis upon which to project those numbers forward, given the fact that the current economic climate is somewhat different than it was during the period leading up to 1990, which means that we don't have an awful lot of history to base any prediction on. And I don't think we have an adequate crystal ball to predict how quickly the economy will turn around that might have an impact on the amount of sales activity that takes place.

**Ms Poole:** If no—

**The Chair:** Ms Poole, could this be your last question, because Mr Turnbull has one and there's a brief one from Mr Wiseman.

**Ms Poole:** I have to choose?

**Mr O'Dowd:** Ms Poole, could I just comment on one point? You're suggesting that there would be a transition to a full assessment, an uncapped assessment for certain changes in business occupancy?

**Ms Poole:** That's right.

**Mr O'Dowd:** It's not my understanding that this is the case, but the details, I think, are covered off in the legislation or have been part of the discussion, if I could ask my colleague from Municipal Affairs to comment on that.

**Mr Ron Skinner:** Metropolitan Toronto has not worked out the details of its implementation plan in terms of how it would handle properties that are expanded, where a new business would go into premises, or many of those things that you mentioned might happen. The details have not been ironed out yet. The legislation provides them with the scope to provide for protection in virtually all circumstances save and except, probably, a new structure on vacant land.

**Ms Poole:** Let me just put it this way. I still haven't asked my question, but I'll just finish off with this one comment: When I've talked to senior people in the Ministry of Revenue about this very thing, they say this plan does not make allowance for it.

**Mr Skinner:** That may be the way they respond. I think they would have to respond only to the method of assessing. They will assess them as they would any other property. The implementation of—

**Ms Poole:** But they've got no 1992 base year to base it upon for the business tax. That's the problem. I would

actually ask for a response in writing on this particular issue, on the one we've just covered.

My last question is, there have been allegations and accusations that the assessment was not carried out properly. I was going to say that the assessment was cooked, but under the circumstances there's probably no place for levity here. I would like to ask Mr O'Dowd, why do assessments for all major office buildings throughout Metro go down during this reassessment when using 1984 values? It was estimated that office buildings would go up to a 50% increase level. Using 1988 values instead, all major office buildings are going to go down. In other words, the movers and shakers are going to get decreases under this plan, while in using 1984 values the movers and shakers were going to get hammered. What happened, Mr O'Dowd?

**Mr O'Dowd:** If I could first put a caveat, I don't know that all office buildings go down. I believe that certainly a majority of the office buildings will remain roughly the same or decrease. The reason for it is one of two things. Firstly, during the period from 1983 through 1989-90 there has been a significant amount of construction of commercial space within Metropolitan Toronto. When new construction is put on to the assessment roll, the level of assessment relative to market value at which it is placed on the roll is a function of the level of assessment which exists within the immediate vicinity.

A lot of the construction took place in the downtown core. As you are probably aware, there was a significant amount of litigation under way with respect to assessments of properties within that downtown core, a number of which were settled around that same point in time. This means that there's a coalescence of the level of assessment, the relationship between assessment of those types of properties to the market value of those types of properties, which means that when you move to a system where you establish a common level of assessment for all commercial properties across Metropolitan Toronto, the proportion of the tax base for commercial properties that's represented by these large buildings is so significant that it moves the total level of assessment towards the average level of those buildings. And since most of them are either new and have been assessed at a level close to 4.5% or 4.3% of market or have been settled through the appeal process at a similar level, the arithmetic dictates that there has to be a coalescence around that particular level of value.

**The Chair:** I have to move on to Mr Turnbull and then to Mr Wiseman, briefly.

**Mr Turnbull:** To Ms Bardecki and perhaps to Mr Braund: With respect to the request by Metropolitan Toronto to find some help for tenants, I have not particularly seen any effort by the government to help the tenants in apartment buildings, given the fact that they are paying taxes based upon an 8% factor of market value as compared with 2.2% for the single-family residential. Could you comment on any discussions you had along those lines?

**Mrs Bardecki:** First of all, the help that Metro asked the province to give it in respect of giving assistance to tenants was to give it the legislative flexibility to ask for automatic decreases in maximum rent, and the province

has provided that help via Bill 94. If you want to comment on further discussions, Mr Braund, that have taken place in order to effect that help—

**Mr Braund:** Metropolitan Toronto has not asked the Ministry of Housing to become involved in the debate of what weight property classes should have within total municipal taxation. That is generally a matter which my colleagues in treasury and Revenue deal with, and perhaps I should turn it over to Mr O'Dowd.

**Mr Turnbull:** Are you comfortable with those levels, 8% for a multifamily residential and 2.2% for a single family?

**Mr O'Dowd:** I think my comfort is irrelevant, given that the process we're working with here is one which defines a class of property and then maintains the tax burden for that class of property through the process of reassessment. It's my understanding that the Fair Tax Commission working group that's looking at property taxes will come forward with a recommendation that there should be an amendment to assessment structures such that the burden of taxes on multiple residential, on apartment buildings, should be much more in line with single-family homes.

**Mr Turnbull:** Based upon that, would you not think it would be more reasonable for us to have waited with this legislation until the Fair Tax Commission property tax panel reports?

**Mr O'Dowd:** I don't think that's an appropriate question for me to respond to, is it?

**The Chair:** Mr Wiseman, last question.

**Mr Wiseman:** If a house is put in a numbered company and shares are transferred from one person to the

next, since it would not appear on the assessment rolls as a transfer of ownership, would it then be reassessed?

**Mr Skinner:** I suppose legally it would not appear as a change of ownership. Metro has the authority, under this legislation, to define change of ownership, and I guess it'll have to grapple with those thoughts.

**Mrs Bardecki:** There are techniques used presently for the land transfer tax which take into account and capture changes of ownership of that nature that take place, and Metro could avail itself of the same techniques if it wished to.

**Mr Wiseman:** Is that built into this legislation, or is that just something they can do anyway?

**Mr Skinner:** No, the legislation enables Metro to define change of ownership for the purposes of this act.

**The Chair:** With that, our afternoon has come to a close and we have to begin again at 7 o'clock, so I would like to thank all of you for coming this afternoon and participating in the briefing. As one who has not been introduced to too many of the joys of market value, I can certainly see why it is a deep and overwhelming study, and I'm sure we will learn far more about it over the course of the next week than we thought was possible.

The committee will now stand adjourned until 7 o'clock.

**Ms Poole:** Mr Chair, on a point of order: Just before the—

**The Chair:** I'm sorry. I've adjourned the hearing till 7 o'clock.

The committee recessed at 1804.



## EVENING SITTING

The committee resumed at 1902.

**The Chair:** Good evening, members of the committee, ladies and gentlemen. This is the standing committee on social development, which is meeting to discuss Bill 94, the Metropolitan Toronto Reassessment Statute Law Amendment Act.

We began our hearings this afternoon with briefings by ministry officials. Tonight we move on to witnesses who will appear before us. As we decided this afternoon, we put off dealing with the subcommittee's report on our order of business, and I would now like to call that report. Members have a copy of the report of the subcommittee before them. Is there any discussion on that report?

**Mr Owens:** I'd like to move an amendment to item 7.

I would like to move that item 7 of the report be amended by adding "scheduled up until 6 pm on Tuesday, December 1, 1992," after the word "presentations" in the first line, and further that the following words be added after "invited" in the fourth line:

"The time for oral presentations be allocated on the following basis:

"Ten minutes for individuals, 20 minutes for groups, to be scheduled after 6 pm, Tuesday, December 1, 1992."

**The Chair:** Any discussion on the amendment? Just for the sake of clarity, what you are raising is that those sessions that have been organized for today and tomorrow, for which the committee has the permission of the House, would remain as set out in the subcommittee report, which is 15 minutes for individuals, 30 minutes for groups, but on the assumption that later tonight the House directs us to sit after 6 o'clock tomorrow and for whatever time, it would be 10 minutes for individuals and 20 minutes for groups.

**Mr Owens:** That's right.

**The Chair:** Did you want to explain why you've made that suggestion?

**Mr Owens:** The reason for the motion is twofold: First, we have an extremely large number of groups and individuals who have requested time to bring forward their testimony. The clerk can clarify the exact numbers; I'll turn it over to Doug. It's my understanding that we had 80 groups and 80 individuals as of today, as well as the folks who had already been scheduled. It's our opinion that we want to get as many people forward as possible in the limited time we have. We've already taken a look at scheduling Saturday and Sunday, which is a highly unusual event around this place, and it's our concern that if we kept the original time limits we would further preclude a number of citizens and groups who have an opinion on this issue.

**The Chair:** Comments, Mr Grandmaitre and Mr Turnbull.

**Mr Grandmaitre:** I am somewhat disappointed at cutting back. Of course we want to listen to as many individuals or groups as possible, but the government should realize that we are talking about not only new enabling legislation but a new model of assessment or reassessment

in Metro. I think it's very, very important that people be given a chance to talk about this new model, this new proposal. I realize that people were given an opportunity at Metro to speak out for or against market value, but they weren't given an opportunity to talk about the model before us, and I think it's very important that they be given the 15 and the 30 minutes originally proposed.

**Mr Turnbull:** Clearly, it has always been the position of the Conservative Party that we wanted to have very full hearings into this scheme and we want to make sure that as many witnesses are heard as is possible; in fact, we believe that everybody who wishes to be heard should be heard.

However, I must say that cutting back the time allocation for these people isn't really fair. I've sat on committees where there has been too short a time allocation for witnesses and it ends up with the parties not having adequate time to develop a line of questioning, which almost destroys the whole reason for the people coming here to present their cases.

**The Chair:** Any further discussion? I'll put the question: All those in favour of the amendment to the committee report put forward by Mr Owens? All those opposed? The amendment carries.

I now have to put the question: Will the subcommittee's report, as amended, carry? The report carries.

Just to be clear, for those who are here and those watching, the procedure tonight and tomorrow afternoon that had already been set up is for 30 minutes and 15 minutes. On the assumption that the House directs us to sit beyond 6 o'clock tomorrow, it will be 10 minutes for individuals and 20 minutes for groups and organizations.

## MUNICIPALITY OF METROPOLITAN TORONTO

**The Chair:** I would now like to call our first witness this evening, Mr Alan Tonks, the chair of Metropolitan Toronto.

Welcome, Chairman Tonks. I know you're not a stranger to these rooms. I just indicate that although we're at about 10 after 7 and we have scheduled half an hour for your presentation, I hope we'll have some opportunity for questions in there as well.

**Mr Alan Tonks:** Thank you very much, Mr Chairman, and thank you to the committee for the opportunity to be here. Let me just preface my remarks by saying that I don't think that any level of government these days, within the context of these times, gains any comfort from having to deal with issues related to assessment reform, shifts in the burden of taxation, even if the cause is as just as it may appear; that is, to alleviate the injustices that have been created over a period of four decades. I think it should be self-evident that it's a difficult time in which to make these kinds of decisions.

The second thing I'd like to say is that I think it will be apparent that if Metropolitan Toronto had the same legislative authority as that vested in the other regional municipalities across this province, I wouldn't be here asking you for your approval with respect to this scheme. Even though

the approach to the implementation of a market-based system of reassessment may appear to be different, it still in principle is very similar to using market-based assessment as that portion of rateable assessment upon which to assess the costs of the regional services which the taxpayer receives the benefit of.

I think it would be an understatement for me to say, at the very least, that while death and taxes may be inevitable, the former should be postponed as long as possible and the latter should be as fair as is absolutely possible. It's to strive towards as fair a system as we can, within the context of very pressing times, that Metropolitan Toronto has proceeded very carefully to inch towards the implementation of a market-based system similar to the other hundreds of municipalities that have legislative authority to do that.

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I'd like first to give you a little bit of an overview, if I may. Mr Chairman, may I doublecheck on how much time I have available to me? I just broke my watch, so time is flying; at least it's falling away. Do I have 15 minutes or 10 minutes?

**The Chair:** You have half an hour. What we hope is that there'll be some time for questions.

**Mr Tonks:** I'll try to keep that down so that the question period will be as much as possible.

Metropolitan Toronto's approval of the interim assessment plan on October 29, 1992, represents the first step towards reforming the current inequities in the property tax system. In Metropolitan Toronto, properties have not been uniformly assessed since 1953, at which time assessments were based on 1940 values. Over time, owners of older properties generally have been paying lower taxes than owners of newer properties. The failure to update assessments has created much inequity, which will now be resolved through this reassessment program.

The need for reassessment has been acknowledged across Metropolitan Toronto. I have never had anybody come into my office, regardless of the impact, who has said that the present system and the status quo are sufficient and acceptable. The failure to update assessed values since the last Metropolitan-wide reassessment in 1953 has allowed many long-standing inequities to become greater. As a result, a Metropolitan-wide uniform basis of assessment no longer exists.

Property owners have lost confidence in the assessment system, which is being weakened through appeals in the courts, yet 86% of all municipalities across the province are on some form of market-based system; in fact, most major Canadian cities are on a market-based system.

Metro council's been involved in assessment reform since I became a member of Metro council in 1976. Because approximately 80% of property taxes collected are for metropolitan school board costs, which are apportioned across the six area municipalities, it's absolutely abundantly clear that we have to have a fair apples-and-apples system that exists across the metropolitan area.

It is necessary to ensure that the assessment base upon which tax is levied for Metro-wide services is up to date. The property tax is the major source of revenue for local

government in Metropolitan Toronto. It only stands to reason that the base upon which property taxes are raised be rational and fair.

Metropolitan council has reviewed and debated reassessment on several occasions and has been very cautious during its consideration of this matter. Council undertook numerous reassessment-related studies to support its decisions. Here are just a few of them.

In 1986, council approved in principle a Metro-wide reassessment and requested an updated study based on 1984 market value.

In 1988, council received an implementation plan based on 1984 market value. And I needn't say that these dates correspond to changes in government, so they reflect two governments through those changes; in fact, Metro reflects the three governments in terms of using market value as a base.

In 1989, council approved an interim reassessment plan based on 1984 market value.

And in 1992, on October 29, council approved the previous interim reassessment plan, with modifications to reflect public concerns. The studies indicate that delay results in greater tax discrepancies and that the majority of taxpayers continue to pay more than their fair share.

Let me briefly review the process Metro Toronto went through in developing the interim reassessment plan in 1989.

In 1989, council's task force on reassessment in Metropolitan Toronto reviewed a number of reassessment and taxation methods, including market value and the unit-value system that was put forward as an alternative by the city of Toronto council. The task force concluded that market value was superior to the other alternatives discussed. Starting from the general market value assessment model used throughout Ontario, the task force developed a plan specific to the unique needs of taxpayers in Metropolitan Toronto. Due to Metropolitan Toronto's size and complexity, the reassessment plan approved by council in September 1989 contained measures of assistance designed to lessen the impact of reassessments after 40 years of failing to update property assessments.

The main conditions of that plan included full decreases for residences and industries, no increases for residences and limited increases for industries to 25%. Capped tax increases would be funded from withholding part of the commercial decreases. The Ontario government approved that plan, but requested that Metropolitan council base its plan on 1988 market values instead of 1984 and that the year of the plan implementation be changed from 1991 to 1993. Council complied with these requests and gave final approval in February 1990.

In 1991, the Ontario government reconfirmed its intention to undertake the reassessment study in Metropolitan Toronto based on 1988 market values. The 1988 market values were submitted to Metropolitan staff in August 1992.

The estimated tax impacts of the plan were computed and released publicly in early September. The results of the estimated tax impact study confirmed details identified in previous analyses. The study showed that the majority of taxpayers across Metropolitan Toronto continue to pay more than their fair share; 56% of taxpayers would receive



decreases; 44% would experience increases, compared to 63% and 37%, respectively, based on the 1984 market values. Furthermore, the tax inequities become greater the longer reassessment is delayed, thereby resulting in larger tax shifts between area municipalities for Metropolitan Toronto-wide services.

Upon analysis of the results of the estimated tax impacts, it became evident that the plan earlier approved by council would need to be modified in order to reflect and adjust to public concerns. Throughout September and October, council sought public input and further analysed possible implementation options. The main points of constructive input gained through the public consultation process include the following suggestions: Capped tax increases should be funded with decreases from within the same property class; enhanced protection measures for commercial properties should be provided; and tax increases and decreases should be phased in. The plan was modified to reflect these kinds of concerns.

The main features of the approved interim reassessment now include: property assessments based on 1988 market values; implementation period, January 1, 1993, to December 31, 1997; reassessment by property class to prevent tax shifts between property classes; tax decreases and increases are phased in and funded with minimal cross-class subsidization; a mechanism has been established to ensure decreases to tenants and that they are reflected in lower rents; and that taxation reform is to continue during the implementation period.

This plan moves towards correcting inequities within the system while still providing assistance and protecting home owners and businesses experiencing tax increases. Under the plan, vacant lands, railway rights of way and pipelines experience full increases and decreases. The protection measures available to homes and businesses do not apply to these properties, nor do these properties subsidize the protection measures to other properties. They stand or fall on their own merits. Properties making grants in lieu of taxes also receive full decreases and increases under the plan. The plan is based on each property class funding its own protection measures from within that class. The valuation methodology applied to some of these properties, such as hydro and railway rights of way and some public utilities, results in increases which cannot be offset by available decreases.

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The interim reassessment plan is intended to serve as a temporary plan. Prior to the next reassessment, before 1998, Metropolitan council will encourage the Ontario government to undertake further reforms to the property taxation system. Council has repeatedly heard public concerns regarding the funding of social services and the education system: They should be taken from the property tax.

In addition, council requested the Fair Tax Commission to review the basis upon which apartments are assessed. The assessment process clearly needs improvement as it affects the public's confidence. We look forward to working with the province on this matter.

We are encouraged by the Minister of Municipal Affairs' recent statement regarding the province's willingness

to work with Metropolitan Toronto towards examining future property tax reform and we acknowledge and await the developments arising from the disentanglement process, the Fair Tax Commission and the review of educational finance.

Mr Chairman, I'd be pleased to answer any questions.

**The Chair:** Thank you very much, Chairman Tonks. We'll begin the questioning with Mr Turnbull.

**Mr Turnbull:** Chairman Tonks, you identified during your discussion here two key aspects. One is reassessment by property class to prevent tax shifts between property classes, and also tax decreases and increases are phased in and funded with minimal cross-subsidization.

**Mr Tonks:** Yes.

**Mr Turnbull:** I think that the committee members will be familiar with the idea of reassessment within classes. Indeed, it has been done by many municipalities across the province.

I have a report here which is dated October 23, 1992, produced by the chief administrative officer of Metro: Impact of Interim Reassessment Plan Adopted by Management Committee on October 16, 1992. It very, very clearly shows that the residential tax bill will be down by \$57 million in a year, compared with what those properties pay today. Commercial breaks even, approximately, and industrial is to fall by about \$20 million.

You have two other classes called "other" which are mostly vacant land and pipelines and rights of way. These two classes have tax increases totalling about \$87 million. That's approximately enough to finance the net decreases for residential and industrial, so I'm hard pressed to accept your opening statements when confronted with numbers from Metropolitan Toronto which somewhat refute that.

**Mr Tonks:** As I indicated, the protection measures available to homes and businesses do not apply to these properties, railway rights of way and so on, nor do these properties subsidize the caps that we have placed within the classes. In fact, the report that you're referring to and the \$87 million initially was the full impact of the cross-subsidization; that has come down. I said that we have not totally achieved obviating the cross-subsidization but we have brought that down to some \$15 million.

The time-of-sale provisions will hopefully, over the period of time between now and 1997, remove the requirement to do any cross-subsidization whatsoever, inasmuch as the time-of-sale will provide the revenue that will help to reduce the requirement for subsidizing the residential class in its entirety, hopefully by 1997.

The valuation methodology applied to railway rights of way and so on is that the abutting lands must reflect—

**Mr Turnbull:** Chairman—

**Mr Tonks:** Sorry.

**Mr Turnbull:** Very clearly, if you take away the increases to the "other" and the rights-of-way classes, then quite frankly you don't have any money to give the reductions for residential.

**Mr Tonks:** Which is precisely why we have not been able to afford, in this plan, to include those for the same decreases that are—

**Mr Turnbull:** Okay, so the opening statement that there be no shift between classes is absolutely incorrect.

**Mr Tonks:** No. I think the matter of how these others are assessed is a matter of provincial policy. It is not an option of ours, Metropolitan Toronto, either under the requirement of this legislation or the present legislation under the municipal Assessment Act—

**Mr Turnbull:** Chairman Tonks, the point—

**Mr Tonks:** —that allows the municipality to assess those on anything other than how they're assessed according to the abutting rights of way, and that is the same right across the province.

**Mr Turnbull:** But the point I'm making—

**Mr Tonks:** The point I'm making is that if you choose to factor that into this plan, then the province has to make changes in the Assessment Act to do so.

**Mr Turnbull:** Okay, but to suggest there's no cross-subsidization is absolutely incorrect. When you look at the numbers as to how much the net reduction for residential and industrial is and you look at the increases to the "other" category, they about balance each other.

**Mr Tonks:** I think we're going to have to agree to disagree on that, because my—

**Mr Turnbull:** I'm looking at your numbers from Metropolitan Toronto.

**Mr Tonks:** Mr Turnbull, you can look at the numbers and I accept with great respect the conclusion you're drawing from that. I'm telling you that, within the classes and according to the criteria Metropolitan Toronto is obligated under the Assessment Act to apply, the cross-subsidization is about \$15 million and those properties you have chosen to bring out of the context of how properties are assessed according to provincial law should be and are on the outside, on the sidebar, of this program and we don't have the right to change that. I take it, sir—

**Mr Turnbull:** It's cross-subsidization.

**Mr Tonks:** With great respect, I take it, Mr Chairman that my answer is quite upfront in that I identified those right at the beginning—granted, within the issue of cross-subsidization—but my answer, sir, is that Metropolitan Toronto has absolutely no other authority but to assess those according to what the abutting properties are within Metropolitan Toronto.

**The Chair:** We move to Ms Poole. I wonder if I could just ask those with cameras if you would mind not putting the light on. It distorts the television coverage and I'm informed that there should be sufficient light here to take a picture, so if you would help us with that.

**Mr Tonks:** If it's any satisfaction, I have no problems with those lights, Mr Chairman. I look the same close up. They can't do anything for my face.

**Ms Poole:** I think the point Mr Turnbull was starting on and attempting to reach was that Metro played games with this plan.

The vacant land was first factored into the categories: the residential category, the commercial category and the industrial category. If that had been brought in with the vacant lands being part of that and capped, because it was part of those three schemes, then your plan wasn't viable.

The political way out was to remove the vacant lands from where they had been put by the ministry, and Metro concocted it so that these vacant lands would stand on their own, no cap, \$48 million more on those vacant lands than should have been, because they're taken out of their classes. Perhaps, Mr Chairman, you would like to respond to those comments.

**Mr Tonks:** In fact, the use of words like "concocting" is playing games with words. I have given the answer. I have attempted to demonstrate that during the period of public discussion there were clarifications that were given and the plan was modified in relation to the public input and professional input we received.

Quite the contrary of suggesting that games were being played, we refined the program according to the information we had. There were no games being played; it was just an honest attempt to deal with a system that is four decades old and to appropriate shifts where in an upfront way they were most appropriate. As I have said, we did that according to the Assessment Act and the manner in which we were obligated to apply assessments as they are worked out by the province, according to its legislation.

I don't think it's appropriate to characterize that as playing games. You may disagree with it; you may disagree with the final outcome, but it was an honest attempt to come to grips with a very, very difficult and complex issue.

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**Ms Poole:** I'd like to shift tack just for a moment and go to an issue which was brought up this afternoon. The parliamentary assistant, the government and the minister keep saying: "This is not full market value assessment. This is not a market value plan." We can agree that at this particular stage it is not full market value, but after the five years there will be a significant portion of Metro that will be on full market value. Would you please tell me, do you think this is a market value plan?

**Mr Tonks:** This is a market value based plan. If we were to implement, as Mississauga and other municipalities did, full market value within the context of our plan—and recognizing that, you know, even some of the regional municipalities had a leg up on Metro because at least some of them had gone to section 63 in assessment updates. In fact, most of the municipalities in Ottawa-Carleton had gone to that. Most of the municipalities in Niagara region had gone to that, but no municipality in Metropolitan Toronto had come anywhere near to an assessment update even close to what our regional neighbours had done.

For me to characterize it, as I have in the past, as inching towards a market value system, I think is as close as I can come. I think that as the time of sale factors click in, we will gradually come to the same market based system as the province is presently on.



If, in the meantime, the province, through its Fair Tax Commission, comes up with another system, I say all power to the province in that respect. We are taking the first steps towards removing over a period of time, gradually, the inequities in the present system.

**Ms Poole:** One of the problems we're having is that we're getting extremely mixed messages from the Minister of Municipal Affairs on this matter. For instance, he has made statements saying this is a municipal responsibility and he trusts the municipality to carry out this responsibility, yet on the other hand he says there are parts of your plan he doesn't like, so he's going to require a bylaw regarding the homes at point of sale.

When this was announced, in the paper it was reported: "Metro officials say the provincial announcement is a crafted political ploy to throw the market value assessment hot potato back in Metro's lap. 'But it won't destroy the deal approved,' they say." Then it quotes you, Chairman Tonks, as saying: "They want to look like it's us that's doing the foul deed. Even now they're trying to cover their political rears by putting a different spin on the issue." I guess I'm asking, did you say those words?

**Mr Tonks:** Oh, absolutely, absolutely. I would even like to take credit for being one of those crafty Metro officials. I would hardly want them to get a leg up on me in that respect.

I responded, I think, as most of us can respond. Where it is a jurisdiction that is in fact responsible for making certain political judgements and where that jurisdiction is close to the people and goes through the full process of having hearings and taking the kinds of very difficult decisions Metropolitan Toronto has, I think it behooves us to understand that the other level of government—in this case the province, regardless of what party it is. I think I can identify with that, as many others perhaps can't. I think one would like to distance oneself from the fallout which may come from the tough choice that has to be made.

I say it without impugning either the political process or the individuals, and in this case, impugning the Minister of Municipal Affairs.

**Ms Poole:** You're kinder than we are.

**Mr Tonks:** I just took it, madam and Mr Chairman, that this is a political decision now and it can always be excused for us to find the easiest way to pass that decision through. I say that without any malice whatsoever, as a practitioner of the art of the possible, I think; sometimes not a very good one.

**The Chair:** We must pass on then.

**Mr Owens:** In terms of some of the other questions that came across from the member for York Mills—and since I can't ask him directly—in terms of the figures that were presented, is it possible that the figures being quoted were not part of the plan that was agreed to on October 29 and that's why the confusion is there?

**Mr Tonks:** I'm really not following that, Mr Owens.

**Mr Owens:** In terms of some of the assumptions that went into the figures that would be included in whatever plan was agreed to, is it possible that the figures Mr Turnbull is

quoting were in fact based not on the assumptions included in the October 29 plan but based on assumptions that were floated—

**Mr Tonks:** It may be possible. We were dealing with over a million assessments that had been worked through the provincial system since the 1984 data were provided for. The assessment officers appeared before the committee. They explained how those assessments were done. They explained how vicinity and districts were worked out, over 300 in Metropolitan Toronto. They explained how the averaging took place. They explained how many thousands were done according to actual affidavits of sale and how those were reflected in the market.

What we did, Mr Owens, was we had a computer model that was put together to massage those data and interpret them as a result of the province, the city of Scarborough and Metropolitan officials sitting down and actually constructing the model. The city of Toronto had a different model. They used different assumptions and they came out with different conclusions. It could be that in the reporting out, some mix and match was attached to interpretations of those figures. I think we've always been consistent in the data we have used and the conclusions we have come to.

**Mr Owens:** In my personal view, your first comments and your concluding comments in terms of the injustices that have taken place in the tax system over the past four decades, and I would argue over the previous two governments—but we may be at variance on that—and in terms of some of the things that are taking place in terms of the Fair Tax Commission and the education financing project, I don't think we can sit here and kid each other that this situation, whether it's the enabling legislation or the Metro plan, is going to take care of any of the inequities currently in place. In terms of the technical briefing and even the basis on which assessments are done between the person who has the pizza store at the corner of Yonge and Wellesley versus the person who has the pizza store in Sherway Gardens mall or Yorkdale, there's this bizarre—

**Mr Tonks:** Difference.

**Mr Owens:** —difference in how the assessments are done.

**Mr Tonks:** Those are the kinds of inequities we're attempting to adjust. But Mr Owens, I certainly hope I haven't given the impression that this interim reassessment plan is the grand panacea for the problems we have with property assessment generally as the chief source of financing services. This is an attempt to at least work towards distributing that load, if you will, that burden, more equitably in Metropolitan Toronto.

In fact, even with the interim assessment in 1997, after it has matured somewhat, there will still be inequities. As a result of the caps, you will still have a pizza shop in the city of Toronto paying less because of the caps being applied than that corresponding property in North York or one of the suburbs. You could find that as a fairly true barometer of other assessed properties.

However, what it does do is say to the people out there, "Look, here's a level of government that's attempting to

come to grips with the issue." It's my hope that property revolts, tax revolts and so on, at least will be allayed somewhat when they see a government at least working towards some concept and policy and fairness.

**Mr Owens:** I don't see any hands going up in back of you there.

**Mr Tonks:** Certainly, what you have seen is an agonizing process of a level of government attempting to come to grips with injustices that have existed for four decades. Nobody's going to be happy with the end result, and in particular people who have benefited by the inequities that have been created. But that's part of the political process, balancing out those who at least will feel some justness and justice is being striven for, as opposed to past experiences with governments that have said, "Well, let's not rock the boat on this one, because this one is"—we know what's going to happen, we just have to deal with it; that's all.

**The Chair:** I'm afraid we've run out of time. I know there were a couple of other members who wanted to ask questions and I'll try to incorporate you into the next one, but if we are to keep to our schedule—

**Mr Tonks:** Mayor Trimmer is more than capable of dealing with those, believe me, and I know you'll have other members of council who'll also be appearing before the board.

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#### CITY OF SCARBOROUGH

**The Chair:** I now call upon the mayor of Scarborough, Mayor Trimmer. While Mayor Trimmer is coming forward, I'd just like to ask the indulgence of members of the committee—Mr Stockwell, who is joining the committee—if we could accord him the privilege of asking a question. His slip, by inadvertence, arrived late. I think it is a courtesy to allow him to ask questions, but we need the consent of the committee to do that. If as Chair I might direct that decision, I trust we would follow protocol and allow him—

**Mr Mammoliti:** Who's going to ask the question?

**The Chair:** Well, we'll find out. Thank you for that. Mayor Trimmer, we welcome you to the committee and know that you also have been in these rooms before. You have half an hour for your presentation. If you would like to introduce the person with you as well, for Hansard, we'd appreciate it.

**Mrs Joyce Trimmer:** It's a pleasure to be given this opportunity to address a topic that is so dear to the hearts of so many people in the city of Scarborough, and in the event that your questions become just too technical for me to answer, I've brought the treasurer of the city of Scarborough, Mr David Creech, along.

Having listened to some of the exchange during the last presentation by Chairman Tonks, it becomes clear—an issue that, of course, has been clear to many of us for a long time—that this is an exceedingly complex issue, very complex. Unfortunately, over the period of time from the first review of the assessment in 1984 and then the new figures in 1988, plus the many permutations and variations

of formulae, at least in the last short while at Metro, the figures that have been going out that have been in the newspapers have not only been exceedingly mixed, but some of them have been downright inaccurate, so it's exceedingly difficult. If people in your position and my position are unable to grasp the full intent of some of those variations, then certainly the general public are having great concerns in understanding, really, what this is going to mean to them.

However, some things are very clear indeed, and let me go through some of the points I have here. There is no question that Metro-wide reassessment is long overdue and, as you heard from the chairman, the last uniform reassessment in Metro was in 1953.

Since then, properties of similar values are assessed differently, and the result, of course, is that properties of comparable market value do not pay the same amount of Metro and school board taxes. There are many, many people who consider this is most unfair and who also recognize that the longer the delay in dealing with this, the greater the discrepancies grow.

Reassessment, as you heard again, is nothing new. Most major Canadian cities are on market value. Across Metro, 86% of the municipalities are assessed on updated market value and 15% of municipalities are reassessed under regional, country-wide section 63.

Scarborough council has been aware of the inequities for a very long time and as early as 1982 we improved implementation of local market value reassessment. Their concerns have been established for 20 years, but in fact they also go back into the early 1970s. Since then there has been no workable alternative offered up. There simply has not been another one, to my knowledge, and we have to see something done in the next little while.

The city of Scarborough has been actively promoting market value reassessment, and of course we and our staff have been working very closely with the treasurers right across Metropolitan Toronto to try to come up with a system that was reasonably equitable. That, of course, is very difficult when people have been paying more than their fair share for such a long time.

It's very important to note, by the way, that when the release of the assessment information Metro-wide was given to all taxpayers, they could go into their municipalities to look and find out for the first time on a large scale just exactly what they have been paying and what they would pay under market value assessment. But those figures did not indicate what they would pay under the formula, so of course there were a lot of very angry people, those who saw their taxes rising considerably and then, on the other hand, those who saw they had been paying far in excess of other areas for many years, up to 40 years.

There is a major problem with assessment appeals. It is the opinion generally, I think, and I certainly hope, that reassessment towards market value reassessment will reduce the number of assessment appeals and therefore the tax burden on the existing taxpayers who have to make up that difference.

We are concerned about the tax break for tenants of apartment buildings. There has been a commitment by



Metro that that will be passed through to the tenants, but the method of doing that again has to be finally resolved.

The majority of Metro taxpayers will benefit from this proposal. Over 56% of all properties across Metro will benefit from a tax decrease; 56% of all the properties. There is a cushion provided for properties facing tax increase, and that again, I believe, is a very fair proposal, taking into account the current economic climate. All residential, commercial and industrial properties are protected from the full tax increase.

Overall, 77% of all Scarborough properties would receive a tax reduction and 84% of the Scarborough residential home owners receive a tax reduction. These taxpayers benefit the most, as they pay property taxes out of their after-tax income. Close to 70% of rental apartment buildings in Scarborough would receive a tax reduction, which would be passed on to the tenants.

The overall picture, then, of Scarborough under the proposal at present is that Scarborough taxpayers would pay \$4 million less to Metro and the school boards, but in fact Scarborough taxpayers have been subsidizing other municipalities to the tune of \$37 million annually. Although they have been subsidizing to the tune of \$37 million they will under this proposal simply pay \$4 million less than that.

The tax burden should be shifted, to some degree, from those taxpayers who have been overpaying their taxes to those who have been underpaying. It seems to me that that is only fair and reasonable.

In looking at some of the concerns about the impact of these increases, "The Metro plan, frankly, will not wreak destruction upon the business community." That is a quote from Stephens Lowden, vice-president of the Board of Trade of Metropolitan Toronto.

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The concerns that have been expressed from the city of Toronto seem to imply that since Scarborough businesses and residences have been paying more than they should for so long, they can in fact afford it. That is not true. There are as many hardship cases right across Metropolitan Toronto as there are anywhere else.

Fifty-two per cent of all commercial properties in Metro will pay less tax. Large buildings in the Toronto financial district will pay less tax. There was a lot of false information pumped out indicating that Toronto was going to collapse under the burden of these incredibly high increases. Well, the ones that were first identified as not being able to cope with that are in fact those large buildings that will pay less. Forty-nine per cent of the commercial properties in Toronto have tax reductions and no taxpayer will have to pay the full tax increase within those groups. The maximum tax increase is 25% of the 1992 taxes phased in over three years.

Again, discussing the issue of the businesses in Scarborough, we've had businesses going under and to some degree that is because of the very heavy load of taxes they have been paying for so long.

The real estate boom in 1988 does not result in high assessment and high taxes. The 1988 market value is the only relative measure of the value of the property. All properties are based on the same basis. All the values increased or

decreased to some degree in 1988—they increased and decreased in the same manner—and the share of the total assessment is the same as before. Obviously, there are going to be some variations as certain areas move up more quickly than others or others drop, but that would happen in any year, to some degree. If it is your belief—or anyone's belief—that 1988 is the wrong year, you can say that about any year at all, because for those people who are going to get an increase there is never a good year at any time, ever.

The cap removal on residential homes upon sale: I hope that cap is removed, because it means that over the years, the removal of the cap and the benefits from that upon point of sale will further go to alleviate the pain of those people who have been paying more than their fair share for many years. Under the proposal, there will just be two years in which those people will be able to receive reductions, and over those two years it will take them to 50% of that which is due to them. Without the point of sale, that 50% is going to stay set until the next review. With point of sale, it will allow a further implementation of the decreases to occur for those who would be due for that.

We have a few concerns, and I would like to run those by you.

The responsibility: In Bill 94, I believe you are suggesting that the responsibility for setting the mill rates perhaps should be with Metro and the school boards. Area municipalities are responsible for billing and collecting taxes and I believe they should be. It doesn't make sense to split it up; you have the concurrent growth of bureaucracies if you're going to do that. It makes sense, therefore, if the area municipalities are responsible for billing and collecting taxes, that they should also be responsible for setting the mill rates.

We have a concern with regard to the due dates for school board levies. I don't know if this has been part of your discussion. At the moment there is a 10-day provision for the municipalities to pay to Metro, and then Metro pays to the school boards. If the area municipalities are required to pay directly to the school boards without any 10-day provision, we could run into a precarious situation whereby we would have to pay the school boards, for example, on the first day or the second day and we would not have received all of the taxes due; in fact, we don't, even after 10 days, but if it were to be one or two, it would be even more precarious for us, and it would obligate us to have to go out and borrow money in order to pay that, and that of course compounds the situation. So I would ask you to review that and, if you are going to require us to pay the school boards directly, consider putting in a 10-day provision similar to that which is in force at Metro.

Tax appeals: That is not an area municipality's responsibility, and I'm not sure it's really appropriate that it should be done through the area municipalities.

The tenant pass-through mechanism: I think I've indicated that that still needs to be addressed.

The Metro market value assessment plan is a compromise, and compromises of course are never popular. You never please everybody with a compromise. I can tell you that there are a lot of very, very angry people in the city of

Scarborough, who now have discovered for how long they have been paying excessively. Many of them are talking very loudly about tax revolt. I have no doubt there will be a major move towards that if something is not implemented. There may well be some tax revolt if this is implemented, but certainly it goes a long way to alleviate the pain of a lot of people. Now that the assessments are out for everyone to see, I am genuinely seriously concerned that the whole system will dissolve into chaos if some commitment is not made to move towards market value.

I think it's also essential to include an ongoing review, because when you consider the compounding interest of not going to the full market value, the compounding effect over the years is going to put the people who have been paying too much at an even greater disadvantage, because they will still be behind all the time, unless you factor in some means of moving on with the system and completing it and accomplishing it over a set period of time.

Finally, I will give you an example of some of the figures; our residents know them full well. Metro did some excellent analyses of a number of situations, but this is one that is dear to the heart of many Scarborough people: On a \$300,000 assessed property in Scarborough, the taxes presently are \$3,200. In Toronto they are \$1,200. These are similar properties—

[Interruption]

**The Chair:** Order, please. I must ask people in the audience to refrain from comment during the presentation by any and all witnesses.

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**Mrs Trimmer:** The point I'm making, Mr Chairman, is that all the figures are there; they're there for anyone to peruse. That is taking into consideration the capping. Across Metro the average in differentiation on a \$300,000 residence, the average difference across Metro from the city of Toronto, is \$2,000. The rest of Metro is paying \$2,000 more. In Scarborough, that difference is \$3,000.

Scarborough's residents, of course, are very largely young families. They are families, many of them on one income, if they can manage to afford to maintain a home on one income these days.

You can compare houses in Scarborough on very small lots and you will find that they are paying, many of them, in excess of \$5,000 per annum. I'm not sure how many houses we have in Scarborough that are paying less than \$1,000, but I assure you there are a number in the city of Toronto who pay less than \$1,000.

The inequities are very serious. They have existed for an incredibly long time. The cat is now out of the bag. Everybody now has access to those numbers and they wish to see some fairness introduced into the system.

During the Metro debate, I will tell you that I did not like the first proposal and I too, like others, compromised because I wanted to see something. I wanted to see some movement and I wanted to see something occurring. I would prefer to see complete market value in one fell swoop, but that's my personal opinion. Obviously, that's going to be exceedingly painful.

Ladies and gentlemen, I hope you have a number of people come down from the city of Scarborough. They do feel strongly about it, but I will tell you that they also felt exceedingly threatened and harassed and bullied and outshouted when they went to Metro council to express their concern. They will not, I think, easily agree or too willingly agree to come down if there is any indication that they will be threatened and intimidated to the same degree that they were previously. Thank you very much for your consideration.

**The Chair:** Thank you, Mayor Trimmer. I have a number of people who want to ask questions and a limited amount of time, so I'm going to have to be fairly strict in terms of how we go about this. We'll begin with Mr Owens with one question, please, so we can try to get everybody in who would like to ask a question.

**Mr Owens:** Before you start counting, in terms of the decorum and in terms of Mayor Trimmer's comments, I think that not only the people in Scarborough but any citizen in the province of Ontario should feel comfortable about coming down to Queen's Park and participating in a committee without fear of any kind of intimidation or harassment, if you would like to make that clear to the television audience as well as the other members who are here.

**The Chair:** Absolutely. I think Mayor Trimmer—

**Mrs Trimmer:** I'll be pleased to, and I hope the news media take that opportunity as well.

**The Chair:** Just to reiterate, this room and indeed this building belong to all the people in the province, who are entitled to come before any and all committees and express their views and expect those views to be listened to with respect. I think everybody on this committee and indeed all 130 elected members in this Legislature would want to make that a very firm commitment to you, to everyone in this room and to anyone who might be thinking of coming and speaking before this committee or any other, and we would want to make that very clear.

**Mrs Trimmer:** That is much appreciated, Mr Chairman. Thank you very much.

**Mr Owens:** My one question: In terms of your presentation, Mayor Trimmer, I thank you, and as a home owner in Scarborough who's actually on the end of receiving a decrease, I have some level of interest in these proceedings.

However, in terms of Scarborough council showing leadership and demonstrating an understanding of what's happening out there in the greater world, whether it's residential or commercial property taxes, are you thinking of not recommending a tax increase to Scarborough council at this point, as we work our way through this process?

**Mrs Trimmer:** That's a wonderful proposal and suggestion. We are indeed trying to accomplish that, but I can't make any commitment before we go through the process. However, I will tell you that Scarborough has managed to accomplish that in over two years. We had the lowest increase of any last year. The year before, it was a zero increase. But I can't help adding this little caveat: It's not the Scarborough increase I'm concerned about; it is the school board increase. As a member of Metro council, I



have to say I'm very concerned about the Metro increase as well.

I don't need to tell you that 52% of our taxes go to the school board and we have no control over that, but we do take the flak for those increases. So we are doing the best we can and we're going to keep it down, we hope, below the level of inflation, which is pretty low.

**The Chair:** I'm going to give the list of who we're going to try to get in: Ms Poole, Mr Turnbull, Ms Swarbrick and Mr Wiseman. I'm cutting the list and those are the ones we'll work in. One question each, please.

**Ms Poole:** Mayor Trimmer, you said in your opening remarks that Scarborough taxpayers have been subsidizing other municipalities to the tune of \$37 million per year and that you want municipalities to pay their fair share.

I guess it depends on a perspective of where you come from, because in the city of Toronto, we feel that we're Metro's cash cow. Of the \$4.4 billion in taxes produced in all of Metro, \$1.8 billion comes from the taxpayers of the city of Toronto: businesses, home owners and tenants. That means we have 29% of the population and yet we, Toronto, paid 42% of every tax dollar spent by Metro.

With education alone, the city of Toronto paid out \$316 million more last year than we used for our own schools. So in fact the position of the city of Toronto is that the city of Toronto is subsidizing the suburbs. I wonder if you'd like to comment on those figures.

**Mrs Trimmer:** I most certainly would like to comment on those figures. Let me deal with the board of education, first of all. Let me remind you that it was the province of Ontario, many, many years ago, whose policy it was that the city of Toronto should contribute towards the education and the improvement in education of the other area municipalities.

I think that was an excellent goal because the city of Toronto had then and still does have most of the ability to generate tax income. They have most of the office buildings; they have most of the wealth; they have everything down there. Along with that, of course, has gone the best transit system and all kinds of other very nice things that the city of Toronto has enjoyed. But the question of education, frankly, is a red herring because the province dictated, and rightly so, that those who could afford it should contribute to evening the educational system across Metro, and that of course is what has happened.

**Mr Turnbull:** Mayor Trimmer, you talk about the impact on business and you seem to take quite a cavalier attitude to what's happening. There are going to be 41,000 businesses across Metro which are going to get increases of up to the maximum amount—I'm not talking about an increase; I'm talking about the maximum allowed under this scheme—41,000 businesses, of which 6,500 are in Scarborough. How can you justify a system that merely says that because of the building they happened to be in in 1988, which was the all-time high water mark for property values, they happened to be in a building which had a very high market value at that time and has probably come tumbling down—how can you say that they should be paying more taxes based upon that value?

**Mrs Trimmer:** That value is applied right across. It doesn't just apply to businesses; it applies to the homes as well. Unless you are to look at the complete numbers—I don't know if you've had an opportunity to look at actual numbers. When you start dealing in percentages it sounds tremendous. You have to go further than that. You've got to go and look at the actual numbers and you've got to see what that percentage increase really translates into in dollars. In some instances, it may well be substantial, and in others it may be very, very minimal. But you're talking about—

**Mr Turnbull:** Excuse me. You must have misunderstood what I said. I'm saying that 41,000 people are getting the maximum, which is 25% in the case of commercial. So I'm not talking about the "other"; I'm talking about 41,000 businesses getting a maximum increase under this. So let's not start talking about maybe a small amount. We're talking about the people getting the maximum.

**Mrs Trimmer:** Twenty-five per cent. Again, 25%—

**Mr Turnbull:** No, it's not 25%.

**Mrs Trimmer:** You said getting the maximum, which is 25%.

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**Mr Turnbull:** In Scarborough you've got 28.9%; we've got in North York 28.1%, in Etobicoke 30.3%, in East York 40.3% and in the city of Toronto 41% getting the maximum increase. These are businesses.

**Mrs Trimmer:** Which is 25%. The maximum business increase is 25%; it's capped at 25%.

**Mr Turnbull:** Twenty-five per cent maximum, yes.

**Mrs Trimmer:** That's a lot of businesses, but it depends what that 25% represents in dollars. For example, let me give you the example of—there were some that were quoted and they were set out in the newspaper, I believe. When those numbers were reviewed by Metro staff, they found that some of the increases were just a few hundred dollars. If you're paying tax on, for example—this was one, it was less than \$500, but let's be generous and say it was \$500, so 25% of that isn't one heck of a lot. That's why I say—

**Mr Turnbull:** That must have been a newspaper stand.

**Mrs Trimmer:** This is why I'm saying that throwing around percentages is meaningless unless you can tie the actual dollar numbers to those. You know, 100% of \$5 is \$10, so big deal.

**Mr Turnbull:** That's absolutely correct, but there are very, very large increases to an awful lot of these people.

**The Chair:** Mr Turnbull, I'm sorry, we've got to move on because we have limited time and I still have Mr Wiseman and Ms Swarbrick.

**Mr Wiseman:** You're going to have to help me out on this a little bit and I'm going to play devil's advocate with this question, but help me if you can.

In downtown Toronto you have a house that sits on a 16.5-foot lot that's appraised at \$300,000, and in Scarborough you have a house that sits on a 60-foot lot that's

appraised at \$300,000. It seems to me that it's going to cost you a lot more for transport in terms of transit costs to move those people around, that it's going to cost you more for sewer maintenance on a per-linear-foot frontage, that it's going to cost you more for schools as you sprawl out into the urban areas in order to build new schools and staff them, while other spaces in the older areas go empty.

Why shouldn't the residents of Scarborough pay more for that kind of an excess of lifestyle in terms of using up land, and why should people in downtown Toronto, who happen to live in a 16.5-foot or 20-foot-wide house subsidize the fact that other people can live on a 60-foot lot? You're going to have to explain that to me.

**Mrs Trimmer:** There seems to be an assumption that the people who live on those 60-foot lots are there totally by choice. But again, let me get back to the statement that I made earlier about the fact that these are young families with young children, which of course is why they moved out into the suburbs. They moved out and they needed the schools. That's why you had to have the contribution for the schools.

But quite frankly, and I'll use my own experience here, the only reason I moved out to the suburbs was because I could afford the house. I couldn't afford to live in the city of Toronto because I couldn't afford the whole financing package of having to pay so much down on a house. If you can put less down on a house in the suburbs with the financing that is available, it may well be too large a house, as it was in my case. I didn't want a house that size. It was all we could afford at the time. I didn't want to have to drive downtown. We have no transit to the extent that you have in the city. We have no subway and the services—

**Mr Wiseman:** With all due respect, you haven't answered my question. The reason you don't have a transit system that works in the suburbs is because there's a sprawl.

**The Chair:** Mr Wiseman, excuse me. Order, please.

**Mrs Trimmer:** The system you are referring to is one on which this whole provincial tax system is based. If you can come up with something better, do it, but we've been experiencing this one for 20 years. The province established it. If you can do something else that isn't going to require us to wait another 20 or 40 years, be my guest. Get on with it.

**Ms Swarbrick:** I would guess that my colleague here beside me will end up, as I will, supporting a compromise move for the short term. I am interested in pursuing a question, however, Mayor Trimmer, with regard to your view for the long term.

Is your sense that in terms of the long term there really is a need for a major overhaul of how we finance education, for instance; that rather than having that lion's share of property tax, funded through property tax, it should be looked at again in terms of whether it should be covered through the income tax system in a situation that would consider more people's ability to pay?

**Mrs Trimmer:** I couldn't agree more. The educational tax portion of it is a real killer, and I believe some serious consideration has to be given to a new system. I

believe there are a number of improvements that could be made, many of them, and I'm sure there are lots of suggestions that can be made. But, as I indicated before, the frustration is that politicians like you and I do an awful lot of talking, and in the meantime there are a lot of people who are suffering and have been for many years, and it simply isn't fair. Something needs to be done in the short term, as long as there is a commitment—and there must be a commitment—to some end result over a certain period of time. Even with this plan, as far as residences are concerned, it's just two years and that's it, and that's not good enough.

**Ms Swarbrick:** In terms of the long term, you agree that we need to look further at that.

**Mrs Trimmer:** Absolutely.

**Ms Swarbrick:** I have one remaining question for you. In terms of the issue of the assessment rates on public lands, such as the utility lands, the rail rights of way and the hydro corridors, would you agree that these do need to have a cap put on them now and that we need to be looking at a separate assessment class for utility lands, rather than assessing rail lands and hydro lands as if they were being used for the commercial or residential or industrial purposes of the lands they may side along?

**Mrs Trimmer:** I would agree that it needs to be looked at, but in looking at it, it's like the scales of justice, if you will: it's got to balance. If you are going to remove any of the increases, wherever—and I don't want to get into the cross-class business—you are going to have to balance that off with lesser decreases. It is a balancing act that's exceedingly difficult. As you compromise and assist one, then you've got to stick it to somebody else, for want of a better term. That is a predicament that Metro has faced. After all the consideration it's been given, I think Metro has come up, after a painful process, with a very good proposal. I'd like more for my residents, obviously, as we all would, but the chances of getting it I think are slim. I'll take this and I'll run with it if I get the chance.

**The Chair:** Thank you very much, Mayor Trimmer, for coming before the committee tonight.

**Mrs Trimmer:** Thank you very much, Mr Chairman.

2020

ALAN WOOD

**The Chair:** I would now call Mr Alan Wood. Mr Wood, welcome to the committee; you have 15 minutes for your presentation.

**Mr Alan Wood:** Does that include leaving time for questions?

**The Chair:** Yes, it does.

**Mr Wood:** I'll try to make it in 10 minutes.

**The Chair:** We have passed out the submission. The clerk has given everyone a copy.

**Mr Wood:** Good. I'm going to read it, if that's all right.

Mr Chair, members of the Legislative Assembly, my name is Alan Wood. I'm 77. I was born in Toronto and I have lived here all my life. When I married, we bought our



present house in 1951 at 29 Lowther Avenue in the Annex—pictures attached—two blocks above Bloor and half a block west of Avenue Road. Our deed says “formerly in the village of Yorkville.” It was built with its two adjoining houses somewhere around 1860—the city has us down as 1850—by the first reeve of the village of Yorkville, who at the time lived next door on the west. That’s in the little house in that picture.

Our lot is 23.79 feet wide. It joins a house on either side. To allow for a mutual drive that goes through the structure, the house is just under 20 feet wide in the front, 13 at the back. It is two-storey, three up and three down, frame with stucco on lath, one-and-a-half bathrooms, an unfinished three-quarter basement. Its floors slope, although all is now firmly supported. It has been well maintained, rewired, new plumbing, new shingles, some windows and doors etc. However, it is essentially what we bought: no gutting and rebuilding.

The assessor says it was worth \$878,000 in 1988. Our tax increase would be \$5,606. Our total tax, plus any mill-rate increases, would be \$8,179. I consider this a flawed assessment.

We asked Wakefield Realty Corp, realtors, to value our house on a market value basis as of 1992 and 1988. Three knowledgeable realtors went over the whole house and grounds together on November 29, 1992. They said that if we were to sell now, we should put it on the market for \$400,000 and could expect to receive a maximum of \$375,000. Their estimate for 1988 was \$500,000.

Today, November 30, 1992, a top salesman for Johnston and Daniel Ltd, realtor, went over our house and estimated—see attached letter—a 1992 asking price at \$395,000, with an expected sale at \$350,000 to \$375,000. The 1988 estimate was \$500,000.

Excuse me, sir; I’d better take my hearing aid out because I speak too quietly when I hear my own voice. Was I speaking loud enough?

**Interjection:** It’s better now.

**Mr Wood:** I’ll put it in for questions.

A similarly constructed house with roughly the same floor area, stucco on frame, but freestanding, at 9 Lowther Avenue, eight houses away, is valued for 1988 by the assessors at \$879,000, \$1,000 more than ours; 9 Lowther Avenue was sold in 1986 for \$250,000 and sold again in the summer of 1992 for \$370,000, a far cry from \$879,000, even if the latter were reduced for today’s values.

A further comparison is 45 Lowther, a two-storey semi-detached with full driveway, the same type of construction and size but with a very small basement. It is on the market for \$399,000, but it is believed that a reduction in this asking price has been announced. The 1988 MVA assessment on 45 Lowther is, incredibly, \$955,000. I have a picture of it here, but I haven’t time, I suppose, to show it to you.

A similar-sized but three-storey brick house next door at 47 Lowther, pictures attached, is asking \$389,000. I have not been inside this, but have seen the others. The 1988 MVA for 47 Lowther is \$877,000.

Under full MVA, if implemented, we would be paying taxes on a great deal over what our 1988 value should be. I’m quite aware we’ll be capped at 5%, but I’m aiming at the assessment. While full market value has not been implemented on residences yet, it is still considered the yardstick and is available for future use. It should be set aside as being flawed. If such a small sample is, apparently, so grossly overstated, even for 1988, the widespread intention to appeal the assessments may become a flood that will greatly congest the system.

Incidentally, I must apologize for the typing; I did it myself.

I feel that with the adjustments or caps, the existing assessment will serve for the present period, during which further research by the Fair Tax Commission and others will develop alternatives. It would remove the feeling, or certainty, of impending doom. The use of the MVA assessment should be only to sort out those who will now be taxed higher, at 5% and 5% additional on the present resident assessment or 10%, 10% and 5% commercial. The present approach to MVA on railway lands, hydro rights of way, parking lots and any other uses now not capped should be capped at similar lower percentages of their present taxes, ie, 5% or 10%.

A further consideration for people such as ourselves who live in small houses and do not drive cars—I gave it up nine years ago because of age, deafness and the fact that we are so central to stores, transportation and services that we do not need one often; I might add, they’re also money—is exemplified by the fact that my top-notch butcher-grocer on Avenue Road near Davenport, who delivers free of charge for large orders, is speaking of leaving Toronto for the Caledon area if MVA impinges more heavily. Similarly, a good friend who supplies us with butter, eggs and cheese, also delivered free of charge, has a store on the Danforth that will be seriously affected, along with a great many in that area. If stores close, where do we shop? A nearby supermarket will also be seriously affected.

On November 26, 1992, Henry Hess, in a report in the *Globe and Mail*, wrote in part about the proposals coming from the property tax working group, appointed by the Honourable Floyd Laughton in 1991 under the umbrella of Ontario’s Fair Tax Commission, as recommending as follows: “Shifting the full cost of social services such as welfare and more—though not all—of the cost of education from property taxes to other types of taxes that better reflect ability to pay.”

Another of the working group’s recommendations reported by Mr Hess is: “Studying alternatives to market value as a basis for assessment, followed by a province-wide reassessment based on a ‘fair and consistent method of valuation.’”

The city of Toronto is an example renowned in North America of a city to live in. Its downtown has large areas of homes that are kept up and improved, with nearby churches, good stores, libraries, hospitals, theatres and generally all services. Its centre does not die at night, its streets are clean and, in the words of that famous urbanologist, Jane Jacobs, it has “eyes on the street.” It has well-used parks and ferries to the island, with even a nature

study school at Hanlan's Point. Portland, Oregon, is almost the only North American city approaching it.

Our beloved city will be harmed, possibly irrevocably, if further steps are taken down the road of what Jane Jacobs calls a "nutty" market value assessment.

Finally, Colin Vaughan, who can encapsulate a difficult subject so ably, wrote on October 12, 1992, in the *Globe and Mail*: "If the shortcut to tax reform is taken, the result will not be pretty. Higher taxes will make the inner city a less attractive place to live and work. Families will move out. Stores will close. Businesses will relocate. The downtown tax base will shrink and the inner city will begin to decay."

The suburbs will feel the brunt of a dying heart in the central city. No one will benefit. Mrs Labatte said in Metro council, in response to a remark from a Metro councillor insisting on the need for haste, that "nevertheless, it should be done right." I agree.

### 2030

**The Chair:** Thank you very much for your presentation and for the attachments.

**Ms Poole:** Mr Wood, I'd really like to thank you for your excellent presentation today. I think you've encapsulated many of the arguments and points that people in the city are feeling about this.

First, you talked about the size of your house. We're not talking about a huge monster home in one of the affluent parts of Metro. It's a modest house, yet it was valued at \$878,000. The other point you made that I think is very important is that a lot of people in Toronto bought their houses many, many years ago, decades ago.

**Mr Wood:** Might I add that I paid \$14,780 for it.

**Ms Poole:** Absolutely, and that's the major problem. We have a large proportion of seniors in the city of Toronto who could afford to buy those houses at that time and pay the taxes based on the value of the house at that time, and now to consider what you would have to pay at \$878,000—

**Mr Wood:** It's \$8,179, I think.

**Ms Poole:** I think you make the point so well. The final point that I think was very good was when you talked about the impact on businesses in your neighbourhood and really how it will destroy a neighbourhood.

I just wanted to thank you very much for your excellent presentation and what you brought to our committee today.

**Mr Turnbull:** Mr Wood, I too would like to thank you for an excellent presentation. During these committee hearings, I'm sure we're going to have a lot of people coming forward with technical papers; indeed, this morning we had them. But here you have studied very well the impact on your neighbourhood, and you've pointed out so correctly that the cost of servicing a small lot in the inner city is in fact a lot less than it is in a suburban location, and that is not reflected in market value. The fact is that in a hot real estate market, whether you like it or not, you're taken along, you're swept along with all of the other values around you, and even if somebody else has the ability

to pay a very high amount for the house adjacent to you, the only choice you have is to sell your house and leave, which you don't want to do. Your ability to pay has not been enhanced, and I think you've said it very well.

There have been discussions about a unit assessment system, which would be a stable assessment system. Have you considered that and do you have any words for us on this issue?

**Mr Wood:** I'm not an expert in the field, but I have thought deeply about a variety of things. Certainly the *Globe and Mail* has come out with some very interesting suggestions, including Mr Arthur Eggleton's suggestions. I don't use, for instance, any more water—well, of course, for water you pay for what you use; it doesn't much matter—but I don't give out much garbage or anything else than a bigger or smaller house. The fact that I'm downtown is sort of a location penalty, you might say. The way the system is aimed to work is not to me logical. I think also that the assessment is—well, I don't want to be too drastic, but it's rather irresponsibly done.

**Mr Turnbull:** Unfortunately, Mayor Trimmer has left. I'm sorry she isn't here for your presentation, because here you're able to explain the—

Interjection.

**Mr Turnbull:** I'm talking about Mayor Trimmer. Unfortunately, she isn't here to hear what you're saying. The value of your house, supposedly, in 1988 has absolutely no relationship to your ability to pay. Indeed, compared with houses in Scarborough, your house has a much higher value, yet when you bought it, there wasn't a big discrepancy between the cost of your home and something out in Scarborough, if someone had moved out to Scarborough in those days.

**The Chair:** Excuse me, Mr Turnbull; I'm sorry. I must turn to Ms Swarbrick for a final question. I'm afraid we're running out of time.

**Ms Swarbrick:** Mr Wood, I also want to say a very big thank you to you for coming before the committee. I think you've done an excellent job of showing why the Metro level of government had to come to some kind of compromise on this issue. I think you've also done a good job of showing why this government is not going to allow an automatic move to market value assessment for 1998; rather, why it's very important that we sit down and work with Metro to try to arrive at a fair system of taxation for 1998. So thank you very much.

**Mr Wood:** Thank you. If you could stop them putting the tax on sales—

**Ms Swarbrick:** On the resale homes? In fact, that's why we're trying to put that special attention on recommending that it go back to Metro for it to reconsider. Certainly I myself, in speaking in the House earlier—and I would urge everybody to encourage Metro to put those same caps on resale houses.

**Mr Wood:** It will make two different kinds of citizen in Toronto: the ones possibly paying much too much—I don't know what the other people's assessments are, whether they're as wrong as ours are, but I feel that every



\$5,000 you tack on to a tax based on assessment can be said to reduce the sale value of the house by 20 times; \$5,000 additional on my house would technically reduce what I might have got by \$100,000. It sounds silly, but that's what my experts tell me. I'm not going to sell; I'm going to go out feet first, so it doesn't bother me too much, but if we could make it so that the underlying horror of market value assessment is put on the sidelines and is not the law of the land, that it can be turned on like a tap, it would be much fairer and Metro would go on just as well.

I feel that the Metro assessment now is really only of use to sort out the sheep from the goats, the ones who are going to get a slight increase and the ones who are going to get a slight decrease. But if you have it latched on to people who are buying their houses—I'm not thinking necessarily of the people selling, but the people buying are going to be charged the full thing. In other words, you can say that the Metro MVA is a sleeping giant that will wake up and nip every 10th person.

**The Chair:** Mr Wood, I want to thank you on behalf of the committee for coming here this evening. I'm sorry we've run out of time.

While we wait for the next presenter to come forward, I just say that in the next 20 minutes or so we expect a bell to start ringing; I put members on notice that we may have to go to the House for a vote. But whoever is speaking before the committee, we will continue with the full program tonight; you'll just have to allow us the five minutes or whatever it is to vote.

2040

TINA SCHICKEDANZ

**The Chair:** We have Ms Tina Schickedanz. Welcome to the committee; you have 15 minutes for your presentation.

**Miss Tina Schickedanz:** My name is Tina Schickedanz; I'm a landlord in North York. I've come here this evening to explain the impact that Metro Toronto's reassessment plan will have on tenants and landlords.

As I trust you are all aware, Metropolitan Toronto's proposed reassessment is not a market value assessment but assessment based on market value. This means the proposed assessment for a single family home, duplex, condo and co-op would be calculated at 2.2% of their 1988 market value. The assessments on small apartment buildings, three to six units, would be calculated at 2.7% of their market value. Commercial properties, that's office buildings, street shops and shopping malls, would be assessed at 4.3% of their market value, and industrial property at 6% of its market value.

We then have apartment complexes with seven or more units. Under this proposed reassessment scheme, they will be assessed at 8% of their market value. That's 33% higher than industrial property, 86% higher than commercial property and that's 263% higher than single family homes, and that's not fair.

We had hoped that market value assessment would mean an end to the inequities that had developed as a result of Metro's outdated assessment base, but instead of equalizing residential assessments, this system makes Metro's tenants second-class citizens by creating a separate class of

assessment to guarantee that tenants continue to pay three and a half times their fair share of taxes. How can any government condone three classes of residential property taxpayers?

Metro's proposed reassessment scheme has only one class of industrial property. There's only one class of commercial property; there is no distinction between an office tower and a coffee shop. In the commercial and industrial assessment classes, there is no distinction between those who own their premises and those who rent them. Why is it okay to make these class distinctions when it comes to residential property taxpayers? Is it because someone still believes that tenants don't pay taxes? We all know they do. Property taxes are the largest single component of a tenant's rent. Almost 25 cents out of every rent dollar go towards paying property taxes.

If you take a typical Metro apartment with monthly rent of \$700, currently about \$165 of that rent goes towards paying property taxes. The Metro proposal will perpetuate this disproportionate tax burden. However, if the province were to allow only one residential class of property, where all residents were assessed at the same level of market value regardless of whether they owned or rented their homes, this inequity would vanish. The property taxes on that typical apartment would drop to approximately \$60 per month and, as you all know, by virtue of the Rent Control Act this property tax reduction of \$105 a month would flow through directly to the rent, reducing it from \$700 to \$595 a month.

Metro council did not pass its MVA motion in isolation. At the same time, council unanimously approved a resolution that "the provincial government be requested to redress the current assessment that perpetuates inequities between home owners and tenants." This has not been done.

If this committee and this government are truly concerned about the affordability of rental housing and are truly opposed to regressive taxation which places a disproportionate burden on lower-income taxpayers, it is inconceivable that you could support this enabling legislation for Metro's reassessment scheme without a companion bill that would eliminate the arbitrary and inequitable distinctions between different residential taxpayers.

**The Chair:** Thank you very much. Questions? Mr Mammoliti.

**Mr Mammoliti:** I'm first, am I? Let me just get something straight first. You're here on behalf of, I guess, the landlords and the tenants?

**Miss Schickedanz:** I'm here on behalf of myself. However, this is an inequity which impacts on me as a landlord and every tenant I know of.

**Mr Mammoliti:** Yes, I'm going to agree with you. I think that in terms of the tax the tenants pay at this particular time, I'd like to just agree on the fact that they're paying a little bit too much. They're paying at this point, I believe, three times more than a home owner for every square foot, if I'm not mistaken, on the square footage.

**Miss Schickedanz:** Based on their value, they are paying three and a half times more than home owners.

**Mr Mammoliti:** Right. Let me assure you that this government is certainly looking into the change that's required so that the tenants will be properly addressed.

Let me just touch on one area in terms of rent control as well. Do you think that tenants will suffer immensely, even though rent control is in place, with this proposed market value assessment in front of us?

**Miss Schickedanz:** Tenants will continue to pay three and a half times their fair share of taxes. I would suggest that is grievous suffering to them, yes.

**Mr Mammoliti:** There's a 3% limit for landlords to increase rent to tenants with the rent control policy.

**Miss Schickedanz:** Regardless of whether rents are increased or decreased, tenants are paying three and one half times more than single-family homes.

**Mr Mammoliti:** Right, and what I'm saying to you is that this government is hoping to change that. In terms of the immediate—

**The Chair:** Mr Mammoliti, I'm sorry, in terms of time, I have several others so—

**Mr Mammoliti:** In terms of the immediate concern, how is MVA going to hurt those tenants?

**Miss Schickedanz:** Those tenants are paying three and one half times the amount of single-family homes.

**The Chair:** I think we've got the answer to that question. I'll turn now to Ms Poole.

**Ms Poole:** Thank you very much for your presentation today. It was really excellent in that it highlights the inequity that tenants are paying right now, as you've mentioned on at least four occasions, three and a half times what home owners are paying.

The city of Toronto has estimated that under this MVA plan that 117,000 tenants would be subject to rent increases. They also estimated that if the taxes were equalized, as you have suggested in your brief, only 1,200 units would have tax increases due to market value. That means 99% of the tax increases for tenants due to market value would disappear if indeed the taxes were equalized, but we've had no indication from this government that it is going to do this. It says, "Well, the Fair Tax Commission..." but it's not even waiting for the Fair Tax Commission report.

In your opinion, do you believe that most tenants are aware that 25% to 30% of their rents go to taxes, or do you think this is a basic problem, that tenants haven't risen up because it hasn't been publicized enough?

**Miss Schickedanz:** I agree with you. Tenants do not for the most part understand what component of their rent goes towards taxes. As a matter of fact, I have spoken to tenants about the issue and have been told, "We don't pay property taxes; we pay rent."

**Ms Poole:** And I think that's—

**The Chair:** Sorry, Ms Poole. I'm afraid we are quite a bit over our time. We're going to have to move on.

Thank you very much for coming before the committee.

**Mr Turnbull:** I don't get a chance?

**The Chair:** I'm awfully sorry. We're running behind.

**Mr Turnbull:** In future could you please divide the time before you—

**The Chair:** I'm trying to do that, but I need the cooperation of all members.

2050

#### ST ANDREW'S RATEPAYERS ASSOCIATION

**The Chair:** I would now like to call the St Andrew's Ratepayers Association, and I would just want to say to the members of the association that we're informed we may be called to the House, I suspect, somewhere in the middle of your presentation. That has nothing to do with the quality of your presentation. We will return and you'll have the full time.

I wonder if I might ask, just for the purposes of Hansard, if whoever is chairing the group would mind introducing everyone. Could you leave for Hansard everyone's name, and if there is a title in the association, that would be appreciated.

**Mr Patrick Sue:** Thank you, Mr Chairman and members of the committee. My name is Patrick Sue and I'm the president of the St Andrew's Ratepayers Association. With me are Jim Essex, treasurer, Annmarie Charness, vice-president, and Mr Van Zybala, a member of the association.

The St Andrew's association represents 1,400 homes in the North York area, and the presentation tonight is going to be given by Mr Essex.

**Mr Jim Essex:** Thank you for giving us the opportunity to speak tonight. Last week in the debate in the House on this issue, Mr Cooke, the Minister of Municipal Affairs, prefaced his remarks with a comment that "It's fair to say that the current tax system in Metro Toronto is unfair" and that "We need to work with the regional government to develop a fairer tax plan for this community." At no time was it defined as to what "fair" meant, nor was it outlined how "we" proposed to work with the regional government. Rather, it seems that the government is prepared to accept what Metro Toronto is suggesting as a short-term solution, and we in St Andrew's are fearful that once the present proposal is in place, it will carry on unchanged until full market assessment is in place.

We would suggest to the committee that a full and complete study of the issue should be conducted now, before the ball has been set in motion. Any review should start with a definition of what is fair.

We're of the view that the present is unfair in that two homes of equal size in the same community can pay dramatically different property taxes. What is fair is that two homes that are, say, both 1,800 square feet in size on a lot that's, say, 40 feet by 100 feet, whether it's in Scarborough, Toronto or North York, should pay the same amount of property taxes. Our principle behind this is that property taxes are meant to be a usage tax and that the municipality provides a bundle of services, whether it's education, roads, sewage, whatever, and that each property of similar size should be paying the same price because it's using the same amount of services.

By looking at the system of assessment based on property values, the legislators appear to be trying to satisfy



residents in outlying areas, who have been squawking for years about paying too much in the form of taxes. We think the other is the case, that, rather, the city of Toronto has been subsidizing the outlying areas for years and years. This is being done in a number of ways, but one of which is to pay for the infrastructure of the city while the suburbs are being developed.

The present proposal seems to be giving the outlying residents a small reward, phasing in the increase for those residents who will be suffering increases and dumping the largest burden on small businesses, the backbone of the Canadian economy. We read this every day in the newspapers: Small businesses are what makes Canada strong.

We are particularly concerned about the effect on those businesses. In St Andrew's, we are at the top of Hogg's Hollow, which is right at the edge of Toronto, and every day you drive down Yonge Street you see in front of every small store and building "No Market Value Assessment." Many of those small businesses close to us will be forced out of business because of market value assessment.

While we don't in our area have a large number of such small businesses, we do see these small businesses close, near at hand, and many of us are familiar with what's happened to cities like Detroit and New York when their small businesses in town have been forced out of business and the downtown area has become a ghost town.

A further contribution to the demise of the downtown is the possibility that cultural institutions would be taxed at the full market value amount. This would force many of these groups out of business, or at least force prices for cultural events beyond the realm of the ordinary citizen who wants to go to see a production of some kind. The net effect would again be to decrease the livability of Toronto's downtown.

A third concern for us is the effect on seniors facing large increases in property taxes, both from market value assessment and from an anticipated large hit from municipal school taxes. The average increases in our neighbourhood from market value assessment, if fully implemented in 1993, would amount to approximately 20% on the existing 1992 taxes on older homes. Even with the proposed cap of 10% on 1992 rates, when you couple that with the proposed increase in school taxes in North York of 6% to 8%, these older residents, and in fact all people in older homes, would be looking at increases of approximately 16% at a time when inflation is running at only 2%.

At the same time, many of those older residents are looking at decreases in their incomes, based on the fact that interest rates have come down. These people are on fixed incomes, and they might be forced out of their homes because of property taxes and the lower income. We don't think this is fair, because there's a large number of people in our community who are older citizens. They've lived in these homes for 35 years or more, and we don't think it's fair that they should be forced out of their homes because of taxes.

The fourth concern which is related to that is the move to put full market value assessment on sales of existing properties. Under this scheme, those same seniors who would suffer because of the taxes, who might have to sell

their homes, would now get a lower price for their properties because of the higher taxes on the properties. So they get a double whammy because of market value assessment. In addition, the people who might buy those houses would suffer a distortion because they would move in and have to pay full market value assessment, and their neighbour next door is still under an older system and paying less tax. So that new individual in the neighbourhood suffers disproportionately.

We understand Mr Cooke stated that the government is opposed to this measure and would not allow it to pass. In reply, we understand that Mr Tonks, chairman of Metropolitan Toronto, has merely said that the Metro government would pass a bylaw to make it happen.

We have heard several members of the government suggest that market value assessment is a municipal issue and that you should just wash your hands of the whole matter. While this may be a politically correct stance to take, it is not fair to the residents of Toronto. Since Metro council is composed of several diverse boroughs or cities, the members of council vote and are expected to vote in a manner which best serves their constituents, as opposed to what is best for Toronto as a whole. Thus, if a representative wishes to be seen to be doing something which benefits the residents of his constituency, such as lowering taxes, then that is the policy which he will support, despite what might be best for the city of Toronto. It is therefore up to the provincial government to fill the gap created by individual municipal interests and examine policies which affect all of Metro Toronto.

In the Globe and Mail this morning there was an article written by a gentleman who lives in Schomberg, and he was complaining about the fact that so many people move from Toronto to Schomberg to get a better quality of life. But in actual fact he points out that there are many small communities within Metro Toronto where the quality of life is just as nice as it is in some small villages in the outlying areas.

We'd like to see Toronto stay that way. Toronto, as the previous gentleman said, is one of the nicest cities to live in in all of North America. I myself have lived in Metro Toronto for more years than I'd like to say, my whole life, and I like it the way it is. I don't like to see it change. I don't like to see Toronto become another Detroit.

Thank you very much. I understand Mr Zybalá would like to speak.

**Mr Van Zybalá:** Yes. I represent a senior retired professional person who is living in the St Andrew's area in a small bungalow, 1,500 square feet, built 43 years ago. I hope that this home will be my home for the rest of my life.

I had a rude awakening when I found out what my property assessment is. It has been assessed at over \$500,000, and my taxes will go accordingly. It will almost double. How could I possibly be in a position to pay for the increased taxes, living on pension? I am faced with a dilemma. What do I do? Do I sell the house? At what price? I would have to sell not at \$500,000—it's impossible. I would be glad to receive that amount of money from the government. I would sell to the government for \$300,000, but there are no offers of such sort.

Secondly, if I would sell, I can only sell it for a very small portion of what I probably would sell for if I had the time to wait. So that's my position, and this represents what Jim mentioned in his submissions.

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**The Chair:** Thank you for your presentation. We'll turn first to Mr Turnbull.

**Mr Turnbull:** Thank you very much for your presentation. Obviously I know a lot about your area, since you're within my riding. I would like to just draw out from you the fact of what has been happening in your area. A lot of older houses have been knocked down to build monster homes. In fact, that had the effect of driving up artificially high the value of lots in your area, only to see it crashing down again. Would it be a fair assessment to say that values rose faster than in other areas of Metro and have crashed down substantially since 1988?

**Mr Essex:** I can give you one example. The way our neighbourhood was built up was that a number of builders built houses but not all in a row. One builder would get six lots in a number of different locations. There was a house exactly the same as mine a couple of blocks away that in 1988 was listed for \$1.08 million. I know for a fact that if I were to sell my house today I would not get \$500,000 for it. That gives you a sample of where the prices went. In fact, eight years ago I bought my house for \$230,000. It went zooming way up and has come back down at least 50 per cent from 1988.

**Mr Turnbull:** I would say it would be a reasonable statement to make that the ability of the people in our neighbourhood did not rise in lock step with the 1988 values.

**Mr Essex:** I believe that's correct, especially in the case of older residents such as Mr Zybala.

**Mr Zybala:** If I could add to it, there are several houses in my street. There are two houses right opposite and they are backing on Highway 401. The sizes are 3,500 square feet to 4,500 square feet. The asking price when the houses were built was about \$750,000. Two years ago they had to sell it at \$450,000. Here you have houses which are 4,500 square feet. My house is 1,500 square feet and is assessed at the value of \$500,000, which is ridiculous.

**Mr Turnbull:** This indeed is the problem. What I hope you can bring out for the members, particularly the people on the other side, is the fact that the people in areas like ours are not just a bunch of fat cats whom you can continue to suck more and more taxes out of. I would like you to give them a message as to the kind of level of taxation that you're paying now. For example, maybe Mr Sue could give us an indication of the kind of taxation that he's paying on his house.

**Mr Sue:** My house is 2,000 square feet, which I think would be modest by Scarborough standards. Yet I'm paying close to \$5,000 in taxes a year and I'm being asked to pay \$900 more under market value assessment. When I bought my house it was under \$200,000 and I made a personal sacrifice to purchase this house so I could live closer to downtown, where I work. Now, I never expected that all these property values would go up drastically

because of these monster homes. I'm being faced with having to pay taxes that I think are frankly unfair. I'm one of those young people Mrs Trimmer mentioned whose family is living on one income. There are people outside of Scarborough in that situation as well. I'm one of them.

**The Chair:** Ms Swarbrick. I might add, just so people don't get excited, that there is no vote.

**Ms Swarbrick:** Oh, there isn't?

**The Chair:** No, we can all relax. If there is to be a vote, I will be informed.

**Ms Swarbrick:** Are you sure those bells don't mean a vote?

**The Chair:** I think the bells have stopped and we're back to business. Pardon us, it's just that this is a time of votes and so on, so we have to run upstairs, but we don't have to now.

**Ms Swarbrick:** Just before getting to my question, I'd like to clarify that I don't think it is fair to say that the provincial government is washing our hands of the entire matter. I think it is more that we should be saying that we believe that for the short term there is a reasonable compromise that has been worked out that won't mean going to automatic full market value assessment for taxes, because in fact we don't agree with going to full market value assessment.

For that reason, between now and the next assessment period of 1998 we will be very clearly sitting down to examine with Metro what the social and economic impact of the property tax system is or would be and looking at ideas like whether we should be removing the education component from property taxes and putting it instead into income tax where it would be based more on an ability to pay. I think there are all those things that we hope you'll join us in in terms of looking at what the system should be come 1998. Of course, we want to do that for a number of the very good reasons you have presented to us today as being some of the areas of concern.

In terms of your concern, which I share, with regard to cultural facilities, I just wanted to ask, are you aware that most cultural facilities will not have any impact from what you've said? They are tax-exempt. For instance, any cultural facilities that are operated by municipal bodies of any type, such as the O'Keefe Centre, the Metropolitan Toronto Zoo, Roy Thomson Hall etc, are tax-exempt and therefore will not suffer increases. The same is the case with the provincially owned properties like the Art Gallery of Ontario, the Royal Ontario Museum, the Ontario Science Centre and also with the ethnocultural facilities of any type. I just wanted to make sure of that. Are you aware that all those types of cultural bodies, other than the clearly privately owned, profit-making cultural facilities, are tax-exempt and will be protected?

**Mr Sue:** I understand that the Jewish Home for the Aged is in that category of "other" and would be subject to full market value.

**Ms Swarbrick:** But then they're not municipally or provincially operated and run or non-profit.

**Mr Sue:** But not everything is run by the government.



**Mr Turnbull:** Not yet.

**Ms Swarbrick:** No, I'm not saying that there are no areas of concern. I just want to find out if you are aware of how many are exempt. The others of course would be protected by the same kind of caps that were worked out within the compromise.

**Mr Sue:** Another aspect of the proposal is that your government says that you are not in favour of having the caps removed on point of sale, yet tonight I heard Chairman Tonks saying very clearly that's what he intends to do. Is your government going to introduce legislation to disallow them from removing the caps at point of sale?

**Ms Swarbrick:** No, I think it's the opposite from what I understand you are saying. What we have done is that in the enabling legislation we're requiring Metro to pass a bylaw if it won't keep the same caps on resale properties. We are saying that we don't agree with what they're looking at doing in terms of resale homes and we want them to rethink it. The same is the case with regard to the publicly owned lands like the railway lands, the hydro corridors and others like that. We want them to rethink it. We're saying that if they want to allow those properties to go to full MVA, they have to pass a special bylaw after this enabling legislation, because we want them to give it sober second thought and change that.

**Mr Sue:** Are you saying—

**The Chair:** I'm sorry; we have to move on. There are two more people who want to ask questions: Mr Grandmaître and Mr Mammoliti.

**Mr Grandmaître:** I can guarantee you that if the government were serious it would introduce legislation to prevent Metro from doing what it's doing now. They're asking Metro to revisit the issue. They may pass a bylaw. But they voted against it three times, so I don't imagine Metro will change its mind. They won't pass a special bylaw.

Every one of you has enumerated a number of flaws in the system. Why do you think the government is determined to go through with this scheme?

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**Mr Essex:** If I may answer, the Toronto Star, a number of weeks ago, published a comparison of which members are experiencing decreases in their property taxes and how they voted and naturally enough—I am showing a prejudice here, but I shouldn't—virtually everyone who is voting for market value assessment is getting a decrease in his personal taxes.

**Ms Swarbrick:** You should know that mine are going up 25% if we go to MVA.

**Mr Essex:** I was generalizing; I'm sorry. But really what they are doing is they are voting for their constituencies, because if their constituents are all going to get a decrease then they are doing the right political thing to vote for their constituents who are going to get a modest decrease, as opposed to looking at the benefit for all of Metro Toronto.

**Mr Grandmaître:** So you think they have a conflict of interest, really?

**Mr Essex:** Yes. I don't think it's personal necessarily, but rather it's politically expedient.

**Mr Grandmaître:** Do you think that the government should wait until the property tax commission and also the education tax commission are through with their studies before implementing any scheme or any reassessment program?

**Mr Essex:** I believe they should, and I believe that it should be the responsibility of the provincial government to step into this matter because then they wouldn't have a vested interest in this particular case.

**Mr Grandmaître:** Thank you.

**The Chair:** Mr Mammoliti.

**Mr Mammoliti:** Mr Chair, it's ironic that a Liberal would tell these people or hint that the government has an ulterior motive in this particular case, especially when the Liberals initiated all of this and were about to implement this prior to the election.

**Ms Poole:** Learn your history, George.

**Mr Mammoliti:** You learn your history, and read some of the letters that your minister wrote as well.

**The Chair:** Order. Mr Mammoliti, you have the floor.

**Mr Mammoliti:** Mr Chair, I would like to ask the group—

**Mr Grandmaître:** Who introduced the bill, George?

**Mr Mammoliti:** Remo Mancini introduced a letter—

**Mr Grandmaître:** No, who introduced the bill, George? Whose bill is it?

**The Chair:** Order, please.

**Mr Mammoliti:** I'm very sympathetic, especially to you, sir, who are paying \$5,000 for a 2,000-square-foot home. I think that's ridiculous. I've got to tell you that I think it is very unfair if that is the case.

In my community, it is very similar. Most of our rate-payers, most of our home owners, will experience a decrease in our community, to the degree of \$2,000 in some areas, \$1,500, even with the amended package.

Of course, I am going to represent my community. That is what I was elected to do. At the same time, I am learning a little bit more about what's happened in terms of the history and in terms of how the people feel who come out here.

But what are we supposed to tell the people who have been waiting for this decrease for years as well? What are we supposed to tell them if we decide to just scrap it and change it completely? They've been waiting on the decrease for years. What are we supposed to say—"You have to wait another 10, 15 years before you experience the decrease"? We'll have them in front of us telling us the same thing.

So I guess the question is, what would you tell them if you were in our shoes and if you wanted to change it?

**Mr Essex:** When I bought my house, I think I was in a similar situation as most other people: I looked at the price of the house, the cost of the property taxes, what the mortgage payments were going to be, and then I decided what I could afford and I moved in on that basis.

Now, the same thing was the case for someone who moved into a house in Scarborough. They looked at exactly the same factors and they moved in on that basis.

So why do the rules have to be changed now? I'm sure that the people didn't move in expecting that they were going to get a \$2,000 decrease somewhere down the road; they moved in based on what they could afford that day. Now you are asking the people who have been there for a long time to take a large increase.

**Mr Mammoliti:** So your response would be, continue paying the \$6,000 or \$7,000 taxes that you are currently paying, even though it is unfair.

**Mr Essex:** My response would be, you knew what the facts were when you moved in; live with it.

**Mr Mammoliti:** Well, I disagree.

**The Chair:** Thank you very much for your presentation. I regret that time has run out, but we appreciate your taking the time to come down before the committee.

**Mr Essex:** Thank you very much.

#### BLOOR BATHURST-MADISON BUSINESS ASSOCIATION

**The Chair:** I now call on the Bloor Bathurst-Madison Business Association, if you would be good enough to come forward. If you would be good enough to introduce the members of your group for Hansard. We're passing out a copy of your presentation to the members of the committee, so please go ahead.

**Mr David Vallance:** I'll start by thanking the committee for giving us the opportunity to speak. About a year ago, when I started to organize the people on Bloor Street where I live, I was concerned about the situation with regard to the closing of businesses and the general economic climate. I didn't like the derelict buildings and the vandalism and panhandlers that were pestering the people on the street, particularly the women. Since then, there's been some improvement. However, I would have to say that the devastation at that time is really nothing compared to what's going to happen to this city and this area if this market value is allowed to proceed in any form.

I'd like to introduce Stella Kokoros, chairman of the organization, and Kathy Goodman, who is a member of the executive committee, both of whom own businesses on the street and both of whom will be affected rather dramatically by the overall impact of market value.

**The Chair:** Could I ask you to introduce yourself?

**Mr Vallance:** Sorry. I'm David Vallance. I'm a resident. I have a business from my home. I don't operate from the street; however, I've developed a lot of contacts on the street and I've been working on this with them.

I'd like to talk about the flaws in the assessment, first of all. Fair market value is generally defined as the highest price available on an open and unrestricted market between a willing buyer and a willing seller dealing at arm's length, both of whom are fully informed as to the qualities of the property concerned and neither of whom is under any compulsion or haste to transact business. By market value, that compulsion and haste changes dramatically. However, even with that definition, the value of a

piece of property or a business is highly subjective, and no true value can be set until a sale actually takes place.

At the public hearings that Metro council held, even allowing for the subjectivity of making a valuation, it was shown that there are many gross anomalies which indicate that this definition was not used in the market value assessment—MVA, as I'll refer to it from here on—that was submitted for approval by the assessors.

Four of these anomalies appear in just a two-block area of the six blocks of the association. A single-storey Dominion store and two small three-storey buildings are on a combined lot of approximately 37,000 square feet. I refer to the Dominion lot. Directly across the street is a lot of about 34,000 square feet, which is 92 per cent of the Dominion lot. The 34,000 square foot lot has a 19-storey apartment building containing three floors of commercial, retail and professional offices. The Dominion lot and the two smaller buildings combined are assessed for the same amount as the 19-storey building. This means, in essence, that the assessors have given no value to the 16 storeys of apartments above the retail complex, or they have assumed that the Dominion lot would be replaced immediately with a 19-storey building.

A business in a six-storey office complex is going to have its taxes reduced to a total of \$7,000. In the next block, two businesses, which together occupy the same space in total as the first business, would have their total taxes increased to \$28,000. That doesn't seem to make any sense.

A one-storey corner grocery store already pays in property and business taxes the equivalent of the first six-and-a-third houses on the street behind it. Its lot is equal to about one-and-two-thirds of the house lots, and its taxes would triple.

The owners of another store in the area have a similar business in Scarborough. At present, the taxes on both stores are directly proportionate to each other relative to their area. With MVA, that ratio would change so that the store in Toronto would pay more than twice as much per square foot as the one in Scarborough, even though the one in Scarborough does proportionately 20 per cent more in business. Mr Tonks calls that apples for apples.

The building containing the store in Toronto has two apartments that would have their taxes increased by \$200 per month per apartment. The store in Scarborough, need I say, is in a one-storey plaza. The assessors seem to be setting housing policy for the city of Toronto.

These examples do not appear fair, because they do not represent market value even in 1988. The result is that people are confused and angry because there appears to be no standard method to the assessment calculations. We suspect that the assessment has been based on the assumption that business in this area is so profitable that it really doesn't matter how high the tax is; but we don't really know, because the assessment office will not publicly talk about how the figures for the assessments were calculated.

Now, I understand from talking to somebody tonight that they're going to hold public hearings after the fact, as this hearing is tonight.

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It happens to be one of the safest and one of the nicest areas in the city and attracts a lot of tourists and visitors



from all over the city, but many owners say that most of their business comes from neighbourhood residents. Many of the owners of the businesses live in the area or close to it. They're located here because this is the area they knew and where they wanted to do business, not necessarily because it was the most profitable place to be.

I'll paraphrase the next paragraph, in view of time. These people are going to see their businesses devalued. Many of them are new Canadians or first-generation Canadians who've opened their business. It's going to destroy a large part of what they've worked for and their pensions.

Downtown businesses cannot pass on the cost of the increased taxes even in good times, because the cross-border shopping syndrome becomes cross-city shopping as businesses with significant tax advantages offer lower prices at the edge of the city. Many types of retail businesses, the kind that make the city a decent place to live, will disappear from the downtown because the cost of doing business will be too high. I'm thinking of tailors and barbers and hairdressers and that type of thing.

There's another side-effect, and this is something I haven't seen any comment on. I was at a meeting not long ago where there was a discussion about the wealth tax the province has been looking into. This is where the thing cropped up, as far as I'm concerned. The side-effect is that the tax on capital gains is becoming a factor in senior government revenues. The transfer of values from business assets to personal and home assets means a loss of tax revenue to senior levels of government, because you're not taxed on your home when you sell it. Is a major tax change of this type a proper function for a municipality?

Professor David Nowlan, who happens to live in our area and whom I've known for a few years, of the department of economics, University of Toronto, states, and I think this is terribly important:

"As the burden of local government becomes heavier, especially in metropolitan areas, and as the role of this level of government becomes more complex"—and it sure is—"we need to think more creatively about the use of local taxation as an instrument of local policy.... However, outside the technical literature on local public finance, interest in local taxation is focused not on these policy effects but rather on issues of administration and distributive fairness."

That's what we've been talking about here tonight and what was discussed at Metro Hall last month.

"These issues are important, of course, but their importance should not cause us to ignore the potential that exists to use taxation as an instrument to link the costs of public services with their benefits or to correct distortions in the market price of urban resources or amenities; nor should it cloud an awareness of undesirable resource use and land development effects that may unwittingly result from existing tax practices. To emphasize redistributive effects rather than allocative or incentive effects is to adopt a perspective more suited to a national tax structure than a structure of local taxes."

When I showed this paper to somebody outside, they said, "That's heavy going." Well, it is heavy going, but this is a very difficult and heavy subject. What this is suggesting

is that property tax should be a user-pay tax and that concern with ability to pay more properly belongs to a senior level of government.

Colin Vaughan, in his column in the *Globe and Mail* on Monday, November 23, says that 18% of the gross provincial product is generated in downtown Toronto. If this is true, and we suspect that it is, then the approximately 8% of Ontario's population in the city of Toronto pays for the services that generate a substantial portion of the revenues for the whole province. This can be seen in the capital payments and transfers to municipalities all over the province, which receive roughly 50% of their financing from the provincial grants; that has been decreasing, of course, but it's a substantial portion. It is also an indication of the efficiency of the city that has been able to finance these transfers for so long.

Mayor Trimmer said that Scarborough was subsidizing Toronto to the tune of \$37 million. When Ms Poole suggested that Toronto had been transferring \$360 million or so to the suburbs, she said that many years ago the province legislated that Toronto should subsidize the new suburbs. We think that after 25 years the suburbs should be able to support themselves.

Perhaps the one good thing that has come out of MVA is the fact that Torontonians are starting now to look at what is actually happening to them. Our suspicion is that once it starts to hit home, they're no longer going to want to take it. Some of us will stay and fight. Others will just get up and leave the province and/or the country. Still others will just leave the city. In any event, the cash cow Colin Vaughan talked about in his article will become very dry, and no milk will be available.

Jane Jacobs has become world famous for her studies of the decay of cities, and she says: "The very concept of MVA, with its idea that somehow there is an unearned value in the city that must be gotten at, is wrong. It attacks the core of the value and the potentiality of the city." As Colin Vaughan said, "It's the goose that lays the golden egg, and somebody wants to kill it."

There is a way out, I think, in the long term. It is in the form of three provincial commissions that are operating right now, all of which seem to be saying that the urban sprawl that has been encouraged for the last 40 years is creating enormous problems that must be dealt with.

The Fair Tax Commission has been mentioned frequently; frankly, I think it's the wrong one as far as property taxes are concerned.

If you look at the report from the Office for the Greater Toronto Area, it says:

"Although not explicitly discussed in the working group papers, municipal taxation is an important lever at the disposal of municipalities. At the very least, municipal taxation must be made consistent with compact urban form, if not proactively in support of it."

"At present, industrial and commercial property taxes in inner areas are high compared to peripheral areas," just the opposite of what we've been hearing. "This has been an important force in peripheralization and the growth of low-density, land-consumptive development."

It goes on to say, "Taxation policy must be supportive of compact urban form. Greater understanding of the implications of municipal taxation and grant policies in the context of new growth initiatives in the GTA is required."

New Planning for Ontario, the report of the Sewell commission, was published in April of this year, and I will just pick out some key phrases: "It should make efficient use of new and existing infrastructures and common services...first using existing infrastructure." What they are saying here is, develop what has already been provided in terms of sewers and water and roads and so on rather than expansion.

Down to Goal G: "Create opportunities for energy-efficient, low-polluting travel, and reduce the need for private automobile use in daily life." That is a goal. One of their policies: "New urban areas and transportation systems will be designed on the basis of the following order of transportation priorities.... As opportunities arise, these priorities will be reflected in existing urban areas." Again they say concentrate on existing urban areas with intensification.

Although the new planning commission doesn't say so in so many words, it is obvious that MVA is actually penalizing the area that most closely meets these goals, that is, the city of Toronto.

Properties in downtown Toronto are more valuable, not because they are more expensive to service but because they are more efficient. There are penalties to doing business or living downtown, such as lack of parking, poor access for deliveries, tow-away zones, panhandlers, crowded streets, aging services that often break down and a perception of higher crime. Despite these things, the market has judged that property is more valuable downtown.

Ms Jacobs, as reported in the *Globe and Mail*, Thursday, November 19, "said property values are higher than elsewhere because these urban areas are 'efficient ways of doing everything. That's why people start businesses in the cities, or go to cities.'"

In the last week there has been a lot of news about the difficult position of the provincial treasury because of a shortfall of revenue. The recession gets a lot of the blame, but we believe there are many ways that the province can work on the expenditure side. If you combine the above reports, and also Toronto's efficiency, it would indicate that there is a potential for greater efficiency and enormous savings if some of the recommendations of these bodies were implemented. This would make the suburbs more efficient, not to mention all the towns and villages across the province that receive grants that encourage high-cost sprawl.

Property tax assessment should not be a crap game, where everyone waits for the roll of the dice—as Mr Mulroney phrases it—every few years to see what the assessors have come up with. What will happen in five years when they do the reassessment is that the whole thing will turn turtle, because the properties in downtown will have a value so low they won't even be able to come up with a number that small.

From published reports, the Municipal Affairs minister has said he wants a better method of assessment before

Metro is due for a new assessment in five years. It should be possible to devise a system for assessment that is not arbitrary but is based on a set of rules that will allow anyone to calculate the assessment and hence the tax on property.

One hangup here, and I've heard it tonight, is that property tax is not fair in terms of income, that it doesn't relate to income. I'm not sure that's really a concern of property tax, because if you went out to buy a fridge or a stove, both of which are necessities in our world, you don't go into the showroom and talk to the salesman and say: "Here's my income tax return. How does it compare with the guy down the street? Shouldn't I get a lower price, or shouldn't he pay a higher price, or something like that?" That doesn't make any sense to me.

If there were a set of rules that wasn't arbitrary, this would avoid the need for regular reassessments and would also avoid the situation that Toronto is now in, where properties have been assessed using different criteria or different base years for assessment. Any new system should penalize people who let their property deteriorate and reward those who maintain their property, because the taxes on both properties would be based not on some arbitrary value, but on some combination of building size, lot size and a component for fixed service costs.

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The inequities across the city are well known and everybody said that they should be dealt with and they should be corrected. The reason those inequities come into being is because, every few years, somebody in his wisdom says, "Let's change the base year for taxes." So what happens is the same as when you sell your house under the current rules, the proposed rules at least, and the full market value assessment comes in; you're going to have a different tax base than your neighbour. That's where the inequities occur. The assessment should be based on a strict set of rules that continues for ever, if you will, or if it's changed, it should all be changed at once.

The method of valuation should be straightforward and each class of property should be assessed using the same criteria. We had a lady here just a few minutes ago talking about apartment buildings. They should be in a different class. Should they be higher or lower? I don't know. Is that a provincial or a municipal responsibility? Different classes of property may be taxed at different rates to reflect the use of local services or because the municipality wants to encourage or discourage certain types of use. Again, is that a provincial or a municipal responsibility?

We feel that we should pay a fair price for the services received, but we shouldn't have to subsidize our neighbours in the suburbs for those same services, which will drive us out of business. I refer to example 4 on page 1. To date there has been no evidence that MVA is fair in that respect, and in fact there has been no study of any kind about what MVA will do to an area as diverse and complex as Metro Toronto. The areas of study should include social, economic and physical effects on both the people and the physical stock.

What's the provincial responsibility?



The minister has obviously recognized the folly of what has been proposed. Now is the time to devise and implement an alternative method of assessment. Professor Nowlan has this to say:

"If the burdens and benefits of a property or other jurisdiction-wide tax are distributed similarly among the residents, the tax is a 'benefit' tax, resident by resident. Within the context of the efficiency model of local government, benefit taxes are desirable because they encourage processes by which optimal amounts of local services are provided and they can help produce efficient patterns of land use"—ie, the city of Toronto, if you ask me.

If the costs of services provided by the municipality are provided efficiently and distributed similarly, then the municipality is treating its residents fairly. School taxes complicate the problem, but is the municipality the right place to deal with that?

We respectfully request that you study the reports and information of your commissions referred to above—and I've got a copy of some for you here—along with the paper by Professor Nowlan, which I also have copies of, and those are some of his references.

In closing, we quote from Professor Nowlan:

"The local tax structure that is necessary to help a municipality respond efficiently to local preferences and achieve efficient uses of land and other resources is likely to be more complicated the larger and the more heterogeneous the taxing jurisdiction. For smaller, more homogeneous municipalities, there may be little practical difference between, say, a residential tax based on property value and one based on household income"—and some others—"but for urban areas having the characteristics of regional economies and for governing structures that are metropolitan in scope, these one-tax alternatives are no longer appropriate. If metropolitan areas have federated local government structures, like those of southern Ontario, with relatively high intraregional mobility but lower interregional mobility, then simpler tax structures at the local levels of government may be adequate, but the regional municipalities will need more sophisticated tax structures."

Again, heavy going, but it's a difficult subject.

Final comment—I wrote this and I didn't really realize that when I was sitting here reading this, the legislation would be going to second reading upstairs at the same time—the technology is now available to put these more sophisticated tax structures in place and the provincial government has an opportunity that may not ever happen again. Once this mangled plan gets into place, inertia will set in and much of the work of the expensive commissions mentioned earlier will have been wasted. Taxes have already been raised to the limit and spending has been cut. It is only by introducing efficiency at every opportunity that you can generate the extra funds that are required to get the provincial budget under control and keep it there.

My last picture shows my impression of market value assessment.

**The Chair:** Right. I was actually going to add that there's also a drawing here which has its own message. We'll turn to questions then.

**Ms Poole:** First of all, thank you for your presentation today. It was extremely comprehensive and I think will be very helpful to us.

On page 6 you state, "From published reports, the Municipal Affairs minister has said he wants a better method of assessment before Metro is due for a new assessment in five years." I can understand how you'd get that impression, because on the one hand the Minister of Municipal Affairs has said that, and on the other, he said that he's giving Metro the authority to go ahead with this plan. He says things that were reiterated by the member from Scarborough tonight, such as, "It's an interim plan," "It's short-term," "It's a compromise," and, "We don't believe in full market value assessment."

But I have a question for you. If, as under this plan, houses go to full market value at point of sale and if all new construction will be done under full market value assessment, if all vacant lands, including railway rights of way, hydro, GO transit, municipal parking lots, are all on full market value, if expansions and additions to businesses are done under full market value and if newly created businesses have their business tax assessed at full market value, then do you believe, after five years, we are going to have a significant portion of Metro and particularly the city of Toronto on full market value?

**Mr Vallance:** That's something I'm really not qualified as an expert to answer. But my opinion would be that there will be a few houses sold—certainly, the value of those properties will drop dramatically, as I said earlier—and then with the next go-round, on the assessment, then the reverse will be totally true, and assessments will drop in Toronto by probably 20% to 30%, maybe even more than that if some of the other effects that we feel are going to happen take place in terms of the businesses.

I didn't mention this during the talk, but there's an item in the Globe on Friday, November 27, that talks about a furniture company moving out of Cornwall because it couldn't get any tax breaks. So taxes are a big factor in a business decision of where to locate and how to operate. I don't think we should get into the buying-businesses syndrome—it's a mug's game, as far as I'm concerned—but that is a very good indication of how seriously the taxes will be viewed by business people.

My own view, as I've said, with my involvement in the business association, is that even a 10% additional tax increase on top of what's going to happen because of school taxes, which Mayor Trimmer talked about, is going to be enough to tip some of the businesses into saying, "I don't need it any more; I've had it; I'm not making enough money per hour to work this way," and they'll close up, move to another area or go on welfare possibly, maybe live on their assets if they can get anything out of them, because a lot of these people have worked hard and saved and do have some assets. There's no question about that.

I don't know. Should we penalize them for that? That's what it is, because as I said on the example on Bloor Street and the business in Scarborough, the ratio right now is—I did the numbers with a calculator—exactly, within one percentage point, one to the other, right now.

The change is going to more than double the ratio. The tax in Toronto will be twice per square foot as the one in Scarborough, and the one in Scarborough's doing more business because it's a shopping plaza where there's lots of parking, there are no tickets, they've got no rush hours where the parking's restricted completely. There are a whole lot of things going for the suburbs. It just doesn't make sense. The value's just not there. It's an imaginary thing.

**Ms Poole:** I think you're absolutely right: It's a matter of trading one set of inequities for another set of inequities, and a set of inequities that's going to be very devastating to our business.

You made the point on page 3 that many types of retail businesses, the kind that make the city a decent place to live in, will disappear from the downtown because the cost of doing business will be too high, and I think that's a crucial point that you make. Mayor Trimmer seemed to make light of the fact that 42,000 businesses across Metro will receive the full 25% increase, which will well be the straw that breaks the camel's back.

**Mr Vallance:** Yes, and Mayor Trimmer's answer to that was, "You've got to look at the numbers." The numbers are irrelevant. It's what you're making from the business that counts. A \$2,000 increase to one business is nothing. A \$2,000 increase to another business is enough to say, "Why do I do it?" It really is.

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**Ms Poole:** Many of those businesses are on the edge right now.

**Mr Vallance:** The numbers are relevant, the percentages are relevant, because that's what they started the business with and that's what they've been working with. To throw a massive increase—10% is a massive increase today—on to a business is really a devastating thing.

As the people during the previous presentation said, the people who started these businesses and bought these homes bought them knowing what the taxes were. Now, I don't think they should continue to pay more than is necessary, but really, I think the problem with the suburbs is that they've got to increase their revenues from their property.

During the hearings at Metro hall, an Etobicoke councillor talked about his taxes going up by \$200, from \$2,700 to \$2,900. He said he was being subsidized by everybody else and that he wasn't paying enough. Big deal. But when he was asked what his house and lot were all about, he had a 265-foot by 65-foot lot. That's half a city block. There are probably \$25,000 in taxes coming from that area in the city. That's what you have to do.

It's in the GTA report, it's in the Sewell report and I think the Fair Tax Commission is saying something the same thing, although I haven't seen its report. It's your commissions. You started these things. The GTA was started by the Liberals, but the Sewell commission certainly was started by you. If you read their letter, that's what they're saying.

**Ms Poole:** Please don't look at me when you say "you." They're the government and we're the opposition.

**Mr Vallance:** During this term of government then, how's that?

**Ms Poole:** Much better.

**The Chair:** On that note, perhaps I can turn to Dr Frankford.

**Mr Frankford:** Do you regard Metro Toronto as one economic unit? You almost seem to think that downtown business and suburban residences—

**Mr Vallance:** I think Mayor Rowlands had it right when she was talking on the phone—in she did on City TV not long ago, and she also said it at city council when I was there listening to her, that we all have our problems but they're different.

Yes, we're an economic unit, but the city of Toronto is different from Scarborough and Etobicoke and North York. They're very closely related because the age of their infrastructure is similar and the ages of their properties are similar. The cost of owning a house in downtown Toronto, on its 25-foot lot, is much higher because it's an 80- or 70- or 90- or 110-year-old house that needs new plumbing, new piping, the plaster needs repairing and it's a constant battle to keep up with it downtown. If you do it and spend the money, then you increase the value and you get hit with higher taxes. It's a bind, and this is really what the problem is with market value assessment. It defeats the purpose of the whole thing of owning a piece of property.

To answer your question, yes, they are an economic unit but they're different in many respects in terms of property.

**Mr Frankford:** I would suggest that there is general agreement that there is an inequity that Scarborough home owners and other suburban home owners are paying relatively more and are being penalized—

**Mr Vallance:** Oh, no. I'd say—

**Mr Frankford:** Let me suggest that if one is concerned about economic development, that lack of revenue, or revenue which is taken in taxes, must have some impact on the local economies of Scarborough East and other suburban areas.

**Mr Vallance:** Look at your reports from the Sewell commission and look at the reports from the office of the Greater Toronto Area which say you have to intensify because the cost of servicing the properties out there is much higher, and they should pay more taxes because it costs more to service them.

At the same time, when I was at city hall somebody phoned in to the radio and said they were going to get a \$900 tax decrease, from \$4,200 to \$3,300. Their lot was 60 by 200—I forget the numbers now—60 by 150. I figured it out in terms of square footage. You could but three and a third times my house on that lot, which would generate over \$12,000 of taxes. That is what you've got to do as far as revenue is concerned.

I'm sorry; your first point was about subsidizing each other. If you want to talk about the inequities of Toronto, let's confine them to Toronto. Let's do a reassessment for the city of Toronto and adjust them within the city itself, but don't ask us to subsidize the suburbs any more. We've



just about done as much as we can possibly do. The figure of \$380 million or \$360 million that was mentioned earlier is a year, not in total; this is a year. That's a fact; it's not a—

**Mr Frankford:** I'd like to continue but I'll defer to the committee.

**The Chair:** I have Ms Swarbrick, Ms Cunningham and finally, Mr Wiseman.

**Ms Swarbrick:** Mr Vallance, although we had senior staff from the Ministry of Revenue and the Ministry of Municipal Affairs today confirm that in fact the Liberal government before us was planning on implementing enabling legislation to allow Metro to also go towards a system based on market value assessment, I'd like to thank you for your very reasoned approach to pointing out the kinds of recommendations that have been made in some reports before us already, and assure you that in fact this government, over the next assessment period, will be giving extremely careful consideration to the contents of those reports and also to the other reports coming in with regard to education financing, the social and economic impact of the property tax system and the others.

I just want to say thank you very much. I think the kinds of things you and your business association have presented to us are very much the kinds of things we have to be considering in looking at moving towards a more fair, all-round system of taxation in 1998.

**Mr Vallance:** Thank you. I would like to just say that I understand the Liberal government did that. At that time I wrote letters, and it was partially in response to those letters that I voted for somebody else in the next election. I did not like it then; I do not like it now.

**The Chair:** Ms Cunningham.

**Mrs Dianne Cunningham (London North):** Well, Mr Chairman, I don't consider this a partisan issue. I represent London and I'm shocked to see this happen here, because I know that most municipalities the size of ours and smaller are fighting like crazy to keep their core alive. I think that's the bottom line here.

It's interesting to see three small business people here before us this evening. We've gone through many meetings in London. I would say that we at least had the opportunity to do an impact study in our city when we did re-evaluate our tax base, and we certainly understood what formula was used with regard to the method of the assessment of calculations for our regional assessment office. This was some five years ago.

I guess right now the question for everybody here this evening should be, why are these things not happening? I'm talking about the assessment calculations and I'm talking about the—

**Mr Vallance:** Are they not happening?

**Mrs Cunningham:** Yes. How could one proceed without these studies?

**Mr Vallance:** It's a puzzle to me that you've got a study that involves—did Mr Tonks say a million properties? That was made available to the public in September, and here it is the end of November, two and a half months later, and you're rushing like crazy to get the legislation

passed so that it can take place in the new year. I've never heard of anything that has such a big impact go through so quickly in my life. I really don't know what's wrong with the people who are running this.

**Mrs Cunningham:** But you have made an effort to get at least the assessment numbers and the formula that one would have used.

**Mr Vallance:** My contacts with the assessment office have not been very pleasant, I'm afraid. They're not very cooperative. In fact, they lie outright when you ask them what the impact is. They presumed this bill that you're passing upstairs tonight had already been passed.

**Mrs Cunningham:** Actually, we stopped the vote on the bill tonight.

**Mr Vallance:** Okay. That's good to hear.

I guess my numbers on the first page—we don't understand, and I was told outside the building today by somebody who's with one of the ministries here that the assessment office is going to hold hearings. Again, it's after the fact, really. The deed is done, almost, at this point.

**Mrs Cunningham:** I think the government members should be listening very seriously. If in fact we are already paying for three commissions to do this kind of work, we should be looking at what we're paying for, and that's the end results.

That's my comment. I thank you very much, to see three small business people. I think many people are happy to visit this city, and depend on it for the economy of not just Metropolitan Toronto but sometimes the rest of the province. So thank you for appearing tonight.

**Mr Vallance:** For a city that thinks we love to be hated, then I appreciate your comments.

**The Chair:** The last question, Mr Wiseman.

**Mr Wiseman:** It's a question but also a way of comment. I don't live in Toronto—I used to live in Scarborough—but your assessment here is dead on in terms of some of the nonsense that is being communicated to people in terms of the building of a myth around urban sprawl.

I live in a community where over the last three or four years we've seen 2,000 houses built and our taxes practically double. Your assessment, in terms of cost per linear foot of frontage of a building, I think is right on and has been confirmed in a number of different places. But everything that you've said clearly indicates that we must move to a different system of taxation. We must base it on different parameters.

Unfortunately, the documents that I have seen coming out of the municipalities do not seem to indicate that they want to move in that direction. For example, one document I have says that we must find new ways of taxation, so what we'll do is, we'll put a tax on every cable television hookup. But they don't want to go to a system where it may be a combination of property tax assessment but, in addition to that, some formula for income tax in order to make sure that the assessment is fairly distributed.

I raised with the mayor of Scarborough the cost of transportation. To go out into the suburbs, it's more costly

per-unit ride than it is if you've got the compact urban formula that you're talking about.

So my question is this, and it's going to be the political battle of the decade. If you think market value assessment is going to be the major civil war, I think trying to put in place a new system of taxation that meets these needs is going to be a bigger battle. My question is this: How do you see yourself getting involved and becoming part of the solution to making some equity and some reasonable changes to the way taxes are raised municipally, provincially and federally?

**Mr Vallance:** I guess I'm involved tonight. I've been involved for the last two and a half months since this hit the streets. Our local councillor, Ila Bossons, has been very involved in the process and has been very cooperative in getting the information out, because that's where it belongs, in the public. So I've become involved and a number of other people have been involved. As you know, if you were here, from the motion earlier tonight, because of the number of delegations, the time has been cut for future ones after tomorrow night. So the people are involved.

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As far as I'm personally concerned, I'm not sure, because I can't afford to give 25% of my time, or 50% of my time, if you count the hours at night spent typing and revising and faxing and phoning people and so on. I'm not sure how much further I can go in this. I don't intend to stop, but I don't know how much time I'm going to be able to put into it in the future, personally.

When I started to delve into it, there was a wealth of information out there. How many people have read the reports from the Office for the Greater Toronto Area? They came out in the middle of September. They're a terrific document. They're not put together by the city of Toronto or Metropolitan Toronto; it's the whole region. They're talking about Milton and Richmond Hill and Pickering and even further out than that, I think, in Oakville. There are people from all those communities involved in that process. The weight is there. What I hear from my neighbours and the other people I've talked to on the street is, "We don't mind paying our taxes, but we've got to be able to understand why they're the way they are and they've got to be fair."

I come back to the example of the store downtown, with the satellite in Scarborough. It's fair now, but it doesn't make any sense the way the change is proposed. The system, whatever it is, has to be like that. How can I help you do that? I don't know. I suspect people like David Nowlan at the University of Toronto and others who make this a professional thing are more valuable as far as you're concerned. But don't wait till the thing's done before you get the information to us.

**Mr Wiseman:** I'll tell you what the big problem is. I'll wrap up very quickly, Mr Chair, because I know time is of the essence. The problem is that the myth has been perpetuated for such a long time that there is such a great body of people out there who believe that urban sprawl, big lots and new houses are assessment, assessment, assessment, and don't recognize what you've said in terms

of the costs for the infrastructure on the basis of linear foot in front of their house. The houses that are 22 wide in Toronto are more cost-effective in every way than the 40- and 60-foot lots—they're calling them conservation lots now—outside of Toronto. Somehow, an education process has to take place.

**The Chair:** Thank you, Mr Vallance, for your submission and that of your organization. I regret that our half-hour has come to an end.

**Mr Vallance:** It's been a good half-hour. I have copies of Mr Sewell's planning for Ontario commission. Also, there's one copy of the greater Toronto area reports, which I think somebody should read, at least.

#### ANNEX RESIDENTS' ASSOCIATION

**The Chair:** Could I now call the Annex Residents' Association, please.

Please have some water and get settled. We want, first of all, to welcome you to the committee. While you are the last witnesses tonight, by no means is that any indication of what you're about to share with us. We certainly will ensure that we have the full period of time with you, if whomever is going to be chairing your group would please introduce herself and introduce the other members of the delegation.

**Ms Mary Corbett:** My name's Mary Corbett. I'm the past chair of the Annex Residents' Association. The people who have joined me in this delegation are all members of the executive of the association. They are Rhoda Lipton, Diane Brook Brown and Peter Levitt. I will be making the initial presentation, and the members of the group will variously answer the questions as the spirit moves them.

First of all, I'd like to thank you very much for offering us this chance to explain our views on the subject of market value assessment to this committee. It's an enormous difference from the experience we had when we visited Metro council and were given five minutes by Chairman Tonks to explain our reservations about market value assessment to the council. We knew exactly how interested the members of Metro council were in our comments when they refused to permit the various members of the council to question us at all on any of our views. It was a Star Chamber sort of proceedings. This is a huge improvement.

First of all, the Annex. It's a part of Toronto that's bounded by Avenue Road, Bloor, Bathurst and the tracks on the north, just so that people can orient themselves. It's a very mixed community. It consists of old Edwardian houses; large 1960s, mostly high-rise apartment buildings; rooming houses; student quarters. The population is incredibly mixed. There is a large student body there still. As well, there are people who have moved into the area, professional people who are self-employed, often who work out of their homes. It's a very mixed area.

We're bounded on all sides of the area by small businesses. You've just heard the Bloor Bathurst-Madison Business Association, and that association really represents the businesses on our southern boundary. So you have some idea from them as to the nature of the problems that we're here to speak to you about this evening.



First of all, I'd like to make it quite clear that our association is firmly in support of the concept of tax reform. We know that there are inequities in the tax system in the city of Toronto. We know that reform is needed. We just don't happen to think that the present market value assessment approach is the way in which taxes ought to be reformed in this city.

One point I'd like to make—and I will make an appeal to the government members in this committee because this just doesn't seem to be getting across—has to do with the question of limits, and whether or not market value should be imposed at point of sale. If full market value assessment is imposed at point of sale immediately, what we will have by 1998, if anything like the current patterns hold, are tens of thousands of properties, private residences—I'm only speaking of private residences, apartments or whatever form they take—which will be on full market value assessment. I think at that point, market value assessment will essentially be a fait accompli for Toronto. I think your statements to the effect that you really want to find some alternative and so forth become empty if in fact the bulk of the properties of the city are on market value assessment.

So I appeal to you, if you are genuine in your statements about wanting to reform the tax system, to please reconsider that point very seriously.

Another point I'd like to make in connection with that has to do with the question of accountability. The question arises as to whether this Legislature ought to block MVA. Is this unjustifiable meddling? The points I'm making are randomly through here, but there have been points raised earlier in the evening and I felt I should depart from the sequence of my argument for purposes of this. Should the province block MVA? Is this unjustified meddling in the efforts of a municipality? Is this the kind of thing that should be permitted?

**2200**

I think the idea of having municipalities, regional governments, be responsible for their actions is commendable, but the fact remains that the province is the senior level of government and the province is accountable. You can delegate all you want. You can delegate responsibility for acting all you want, but ultimately this Legislature will be accountable for the results of market value assessment. You cannot delegate accountability. I spent 20 years in the civil service and heard that over and over and over again, unless things have changed in the last year or so.

I'd just like to make that point, and to make the point that what we have in Metro Toronto is a little bit like what we have in Canada. Politicians turn themselves inside out trying to figure out how to deal, how to balance off the Senate, to accommodate the needs of Quebec and the Maritimes and the west variously. Toronto's in something like the same position. When everybody gangs up on us, how do we deal with it? So we look to you as our ombudspersons.

I think one of the major concerns we have with respect to market value assessment has to do with the loss of jobs which we see occurring in our community. For every \$8,000 of assessment increase when we have full MVA, you're looking at the loss of a part-time job. For every

\$20,000 you see increased in the property taxes of small business, you're looking at the loss of a full-time job. We've estimated that at least 100 jobs will be lost in the few blocks just immediately south of our residential area, and yet at this very time, if what I read in the papers and what I experience myself is true, we have an unemployment problem in this city.

Any laws should stimulate. They should have a purpose. Laws should support government policies.

Does market value assessment support the policies of the present government or of any reasonable government you might hope to have in place? We submit it does not. We submit that it ruins the prospect of job creations. It counters and will make much harder the results of the work of the Fair Tax Commission and of the Sewell commission—those have been covered more than adequately by previous speakers—and we would submit that the whole concept of market value assessment, by destroying jobs, by making it harder to reform property tax, by making it harder to create incentives to urban intensification, is not only something that's going to be awkward but it will be a positive disincentive to reform in the greater Toronto area.

We also object to market value assessment in principle. Market value assessment is a form of wealth tax, but it's unrelated to the individual taxpayer's ability to pay the tax. When you hear of people getting tax increases, facing tax increases from \$3,000 to \$10,000, how many of you could deal with that easily? How many of you can rustle up \$7,000 just out of your pockets? You of course are on salary. I'm not. I'm privately employed, a small business person. I make money when I find contracts and so on. The income is fairly steady, but I certainly don't budget for that kind of increase, and I don't think most other people do either.

Basically, what you're talking about in this putative wealth tax, which has to do with these phantom increases which materialized and then disappeared faster than a speeding bullet—it's fairly gold, that money. That wealth is fairly gold. It's not real. But the taxes will be real.

Another point I would like to make—and this is something that hasn't come up before and I think is absolutely shocking and perhaps the most profoundly distressing aspect of this entire market value assessment exercise—is that market value assessment will actively encourage the destruction of our neighbourhoods and it will encourage and promote almost exponential development.

I'm not sure if you realize this, but one of the things we have found out about the way in which market value assessment is working in the city of Toronto is that it isn't really just some value real estate might have attached to a property. No.

I'd like to use the example of what's happening to the Pollution Probe building. Pollution Probe—I think you've all heard of it—is located at 12 Madison Avenue in an old Edwardian building. The building was valued by valuers in 1988 at \$660,000. That \$660,000 is the price that was then paid when Pollution Probe bought the property.

The assessment on that property is \$2,309 million. Why is there this difference? There is this difference because there is a vacant lot attached next to part of the

Pollution Probe property. This property is generally zoned commercial, and if you ripped down the Edwardian building that's adjacent to it and you put up an office building, it could be worth \$2.3 million.

So basically what we've got in terms of market value assessment in the city is assessment at the highest maximum value that can be attached if the property were fully developed.

There's a similar case a block from me. On one corner at Bloor and Walmer Road there's a high-rise apartment building: some offices, businesses on the ground floor, a drugstore and so on. Across the street, a single-storey—

**Mr Mammoliti:** Doughnut shop.

**Ms Corbett:** No, not the doughnut shop. A supermarket, and a couple of buildings. If you add the assessments for an acre of land under the high-rise and the acre of land across the street which is occupied by a single-storey, both those property assessments come out to roughly \$26 million. Why? Because the location occupied by the supermarket could be developed and they could put a high-rise there too. So it's the maximum value that could be attached to that property that has been assigned, at least to those properties, and we've seen many other examples of that across the city. We're quite appalled by it.

Various people have said, and I think one of the members said, that there was not a tremendous problem with the non-profits in the city. Most of the non-profits in the city—and I know because I managed a shelter for battered women for some time—are in fact heavily subsidized by public money but they are privately run and those will be hit with market value assessment. They are in the same position that Pollution Probe is in. If there is no relief in Pollution Probe's situation, it will of course have to close its doors.

So what we see, and we'd be prepared to talk about this but we realize it's late and there have been a lot of suggestions that have been made—but we do believe that what is needed in Toronto is a fair tax system, a tax system that reflects and respects the differences from one municipality to the other within the city and a system that is based on the population, the services that are received and needed in the different parts of the city, rather than in some phantom fairy gold called market value. It's got to be service-based. The demand for services has got to be a component in assessing the property values in the city.

It's been made pretty clear that everything I've said is probably a waste of time because market value assessment will go ahead. So if that's the case, then I would appeal to the government party to at least insist on some reformation, on some reform in the way in which it's being conducted.

First of all, we want a full disclosure to all taxpayers, whether they are renting the property or owning it, as to what their rates will be. We haven't had that. We've gotten it bootlegged and what not from our various councillors and we've been sharing it as best we can, but everybody should, as a matter of right, be told about this.

We should have a right, if need be, to straighten out the values. That is to say, if we need to appeal the values, we

shouldn't be confronted with the absolute insolence and arrogance that was displayed by a civil servant who made some comment to the effect that, "Oh yeah, well, if there's any situation where we've added an extra zero, we'll fix it, but the appeals won't take long." That was arrogance of the first order and absolutely intolerable. I can't remember who it was who said that; I just heard it and started yelling at the radio.

## 2210

I would ask too that you reconsider the use of 1988 as the base year in the system, because 1988 was a year in which property values went absolutely nuts. The house I'm in, which is a three-bedroom town house, went from \$180,000 in about 1986 to—some of them were selling for \$540,000 at the peak. They promptly plummeted to \$320,000 or something. I mean, it's just nuts. We didn't have the same kind of patterns of increase and decrease evenly across Metro. There were greater increases and more fluctuation in the downtown area, and for that reason the use of that year is a particularly difficult one for us.

There are a number of other points I've made. They're here. It's late, and I'm sure that some of the members may have some questions and some of my colleagues may have some comments they wish to add.

**The Chair:** We'll commence then with Ms Poole.

**Ms Poole:** Mary, I'd like to thank you for an outstanding presentation. This is an evening when we've had several excellent ones, but yours has really, I think, outdone them all.

I guess I share your disillusionment about the process of stopping this legislation, simply because the government has the majority. They have the mandate, and if this is what they want, this is what they'll get.

But there is one thing I wanted to bring up with you. You talked about the protective cap being removed at the point of sale and that you would like the government to rethink its position on this. The Minister of Municipal Affairs has said that he doesn't like it. However, in the legislation he puts in a section which requires—not forbids, but requires—Metro to pass a bylaw to do it. It's been before Metro council now three times, and three times Metro has said it wants it. They want, on the point of sale, for homes to go to full market value.

**Ms Corbett:** Of course. They voted for market value; they'll vote for that.

**Ms Poole:** Exactly. So when I gave my speech in the Legislature last week, I put the government on notice that I will be introducing an amendment to the legislation to ensure that the protective cap will not be removed at the point of sale. I hope all of the members of the committee, particularly on the government side, will take note of that, in case they weren't in the Legislature at the time. When we go to clause-by-clause, you're going to have to vote on that, and if you at least want to purport to represent the interests of the city of Toronto and to save our city, then you will have to support that amendment.

**Ms Corbett:** Yes.

**Ms Poole:** I can't guarantee it will go through, but I will guarantee it will be placed.



**Ms Corbett:** We thank you, and we appeal to all members of all parties to consider this very carefully. We all agree that there are flaws in market value assessment. What we are asking for is simply some protection until such time as we can develop a better system, a more equitable system for assessing properties across Metro.

**Mr Owens:** I want to tell you, after the first day of hearings on this subject, I'm about to pull out what little hair I have left and say, "This stuff is just wacko." I mean, I sit and I listen to people from the suburbs, of which I represent a riding in Scarborough, and I have people kicking down my door saying they want full MVA, they want their decreases—

**Ms Corbett:** I used to live there; I know.

**Mr Owens:** —and I have people now from the city of Toronto saying they're going to have \$8,000 and \$25,000 increases on their taxes. Now, I'm not Solomon, and I'm trying to figure it out. Somewhere in between there's a reality to be explored. I think we all agree that the assessment system is crazy.

**Ms Corbett:** It doesn't work.

**Mr Owens:** It's absolutely insane.

**Ms Corbett:** That's right, and the proposals which the city of Toronto has made, which take into account the services required by property, the size of the property, various other aspects of assessment—and as well, I believe, it has a small market value component in it. Those proposals which were made in the earlier debates on market value I think have a great deal of merit and I think could solve the problem. It's just that people have got hung up on the idea of market value.

**Mr Owens:** I like your presentation, because in going through it—one of the things that disturbs me is this argument about who's been subsidizing whom. In my view, that's a total red herring and it doesn't matter, because whether I live in Scarborough, I work in the city of Toronto, and people who live in the city of Toronto come to Scarborough to work. In my view, we all live in the same city, so let's sit down and figure out some kind of a reasonable answer to this proposal.

You raised an issue around non-profit institutions. My question is to the parliamentary assistant or to the ministry. I'd like to get a clarification of how non-profits will be treated. The example that was used was shelters for battered women. What is the view of the ministry on how these shelters will be treated with respect to taxation?

**Mr Mills:** Just a point of clarification: Where there's been an exemption—and there are some—that will be in effect, but the others will be treated like private property.

**Mr Gary Carr (Oakville South):** On page 3, you talk about some of the impact on jobs. If this goes through, what do you see happening? You mentioned a couple of examples of the bookstore and the cleaning establishment. If this goes through six months, a year from now, whatever, what do you see happening to the businesses in the area you're involved with?

**Ms Corbett:** What we see happening is something very like what's happened in the South Bronx. I don't

know how many of you have gone to have a look at the South Bronx. I did, and our association is actually prepared to fund a sightseeing trip by bus—this will be a very proletarian sightseeing trip—for members of the Legislature, any of you who would like to go and see exactly what we think will happen to our area.

We think we'll be faced with boarded-up buildings. We already have a lot of derelicts on the street. I use that term with the greatest sympathy, because these are people who are absolutely raddled and ruined with drugs and alcohol, very young people, people probably under 20, many of them. We're working with community groups. Churches, the community residents' association and the business association have formed a trio to try and attack these problems and we've put a lot of time and effort into them, but we can only make a dent in them.

But the more that jobs are destroyed, the more that businesses close, the more that stores become shells, the more our community will become like some American cities. We're asking this body—

**Mr Owens:** That's what free trade's all about.

**Ms Corbett:** Well, it doesn't help, either. But we're asking this body to help us save the city. Don't destroy it.

**Mr Carr:** It's ironic that in the United States, Governor Clinton was elected and he's basically going to set up tax-free zones to get people to come back into the cities. Essentially, what we do is we destroy them, level them, move all the people out, and then we have tax incentives to get them to move back in. If what we're doing weren't so tremendous in terms of cost to humans, if it weren't so tragic, it would be comical, and we're doing the same thing here.

Specifically, regarding some of the home owners—and I'm thinking particularly of some of the seniors—how many people do you think will be forced out of their homes as a direct result of this?

**Ms Corbett:** I don't know. I know that one thing seems to be being overlooked about people's ability to pay taxes; that is, that people, whether they're seniors or civil servants or employed by other organizations, their wage increases are going up right now in the neighbourhood of from zero to 2% or 3% a year—that's from the bottom to the top; others, of course, are taking decreases—yet costs on every front are going up.

2220

What I think is going to happen is that there will be a major inability of people to meet these very large increases, even with the caps and so forth, because the rising costs of social services are going up exponentially in the city of Toronto and in Metro, and to meet those we're looking at 15% increases overall in mill rates and that sort of thing in addition to the market value increase. I'm just not sure where people are going to find these extra thousands of dollars. I think Diane would like to speak to this, too.

**Ms Diane Brook Brown:** I'd like to speak to the issue of affordable housing in our community. The Annex is a community in which many homes have second apartments. A couple of houses down from me there's a rather

extraordinary example of what market value assessment would do to affordable housing.

A semi, the south side of the semi, is a single-family home. It's been assessed at \$380,000. The north half of the semi, which is absolutely identical—same paint job, same contractor, same level of renovations—differs in only one respect, that it has a basement unit. The basement unit rents for \$500 a month. The north half of the semi has been assessed at \$780,000. The rent on that unit, if full MVA went into effect, would have to go up by \$400 a month in order to absorb the increased tax. The owner of that building has said there's no way that he's going to be able to get \$900 for the basement unit. It has a little two-burner stove and a small washroom. Since the owner doesn't need the income that badly, we will lose an affordable unit.

That situation I think is going to occur throughout the Annex and throughout many of the older neighbourhoods in our city, precisely at a time when we are trying to encourage that kind of housing intensification.

**Mr Carr:** Looking at some of the people who are involved, one of the problems we have with this issue is the fact that so many people don't know what's happening until they actually get their bill, notwithstanding the fact that it's been on television almost every night. Looking at your area, what percentage of the people do you think realize what is going to happen to them? Do you have any idea, ballpark?

**Ms Corbett:** We've made every effort to circulate to every single residence a means of having information. We've put out a number of flyers with telephone numbers and that sort of thing; means of information about this. We've had public meetings and we've handed out the information. We've done a great deal in the community. We've published newsletters twice that have a distribution of 5,000 that tell you how to get the information and give people examples of what's going on. So we've certainly made every effort. One large area of the Annex has been covered with individual notes to individual households listing exactly what the assessment changes will be. We haven't managed to cover absolutely everything, but we've certainly tried.

**Mr Carr:** I'm sure you've done a good job of getting it out. What I was getting at is that I don't think we're hearing from the vast majority of the people, because I think the vast majority of the people don't know—

**Ms Corbett:** Excuse me. I think the vast majority of people believe that this Legislature is going to stop it, that this insanity will never happen. They don't believe it's really going to happen, and it is. I think that's why they're not paying attention yet.

**Ms Swarbrick:** You've indicated that you used to live in Scarborough, where I am now. Although I would face

under MVA a 25% increase, as I mentioned before, I used to live in the Annex as well, so it's an interesting turnabout here.

Even with of the timing we're under and the large feeling of a need to put through a compromise that hopefully will be reasonably livable for everybody for the next few years, for the immediate future, I'm hoping that after the wonderful and powerful representation you've made before us here that you won't end up feeling that what you've had to say and all the work you've done will be a waste of time. Because what you've put before us, you've put before a group of people who care very much—certainly from the government side, as well as from the opposition side, I know—about this system and about trying to make sure that we do work towards a very fair system.

I want you to know that I don't think that what you're doing is a waste of time, even if you don't get right now what you want. I think it's very useful, what you've done.

You talk about the feeling of the need to work towards a fair tax system. You propose that being based on population and services received and needed. I'm wondering if you've given thought yet to things like: Do you feel, then, that the education component should be taken out of property tax and paid for by income tax on an ability-to-pay basis? What kind of comments do you have about those other aspects besides the service cost in the property tax?

**Ms Corbett:** I think we'd have to comment separately, because our association hasn't addressed that. It is my personal view that the education tax ought to be entirely separate. I think the whole system of having separate local boards of education does nothing but create a charade for some rather self-important people to become elected and guide the destinies of the children, spending more money than pretty well any other country in the civilized world—such as it is; God knows what civilization is—and managing at the same time to achieve pretty well the lowest standards. So obviously, some proactive stance on the part of government to take over this mess and reform it is absolutely essential.

I'm sure my colleagues may have some other comments. Does that answer your question? If it's taken over by the province, then obviously the funding should be through the income tax system.

**The Chair:** Thank you very much for coming before us and ending our evening on, I think, a good note and a good discussion. We appreciate that for some it means coming at such a late hour, after what I'm sure has been a long day for all of you. Thank you very much.

To the committee, we stand adjourned until 3:30 tomorrow in this same room.

The committee adjourned at 2227.











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## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

**\*Chair / Président:** Beer, Charles (York North/-Nord L)

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Drainville, Dennis (Victoria-Haliburton ND)

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**\*Owens, Stephen** (Scarborough Centre ND)

White, Drummond (Durham Centre ND)

Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)

Wilson, Jim (Simcoe West/-Ouest PC)

Witmer, Elizabeth (Waterloo North/-Nord PC)

**\*In attendance / présents:**

**Substitutions present / Membres remplaçants présents:**

Frankford, Robert (Scarborough East/-Est ND) for Mr Gary Wilson

Grandmaitre, Bernard (Ottawa East/-Est L) for Mrs Fawcett

Mammoliti, George (Yorkview ND) for Mr Drainville

Mills, Gordon (Durham East/-Est ND) for Mr Martin

Poole, Dianne (Eglinton L) for Mrs O'Neill

Swarbrick, Anne (Scarborough West/-Ouest ND) for Mrs Mathysen

Turnbull, David (York Mills PC) for Mrs Witmer

Wiseman, Jim (Durham West/-Ouest ND) for Mr White

**Also taking part / Autres participants et participantes:**

Carr, Gary (Oakville South/-Sud PC)

Cunningham, Dianne (London North/-Nord PC)

**Clerk / Greffier:** Arnott, Douglas

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Richmond, Jerry, research officer, Legislative Research Service





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## Legislative Assembly of Ontario

Second session, 35th Parliament

# Official Report of Debates (Hansard)

Tuesday 1 December 1992

## Standing committee on social development

Metropolitan Toronto  
Reassessment Statute Law  
Amendment Act, 1992

Chair: Charles Beer  
Clerk: Douglas Arnott

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## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

# Journal des débats (Hansard)

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## Comité permanent des affaires sociales

Loi de 1992 modifiant des lois  
en ce qui concerne les nouvelles  
évaluations de la communauté  
urbaine de Toronto

Président : Charles Beer  
Greffier : Douglas Arnott

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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Tuesday 1 December 1992

The committee met at 1544 in room 151.

### METROPOLITAN TORONTO REASSESSMENT STATUTE LAW AMENDMENT ACT, 1992 LOI DE 1992 MODIFIANT DES LOIS EN CE QUI CONCERNE LES NOUVELLES ÉVALUATIONS DE LA COMMUNAUTÉ URBAINE DE TORONTO

Consideration of Bill 94, An Act to amend certain Acts to implement the interim reassessment plan of Metropolitan Toronto on a property class by property class basis and to permit all municipalities to provide for the pass through to tenants of tax decreases resulting from reassessment and to make incidental amendments related to financing in The Municipality of Metropolitan Toronto / Loi modifiant certaines lois afin de mettre en oeuvre le programme provisoire de nouvelles évaluations de la communauté urbaine de Toronto à partir de chaque catégorie de biens, de permettre à toutes les municipalités de prévoir que les locataires profitent des réductions d'impôt occasionnées par les nouvelles évaluations et d'apporter des modifications corrélatives reliées au financement dans la municipalité de la communauté urbaine de Toronto.

**The Chair (Mr Charles Beer):** Good afternoon, ladies and gentlemen. We'll begin the second day of hearings before the standing committee on social development looking at the matter of Bill 94, the Metropolitan Toronto Reassessment Statute Law Amendment Act, 1992.

Before getting into the bill, I would like to report to the committee and ask for the committee's approval. The subcommittee looked at three questions regarding our schedule. As you know, the House has just given us permission to sit beyond today at 6 o'clock. There are just several issues that arise.

One is that on Saturday this building is going to be full of 5,000 children and it was thought it might be best if we met elsewhere. We've made arrangements for the meetings on Saturday to be held in the Superior Room of the Macdonald Block, which of course is just adjacent to Queen's Park, so we would like approval on that.

We also need approval to sit Monday morning, Monday afternoon and Monday evening, and approval to meet on Saturday and Sunday at the hours already determined. If I can just find my hours, determined with the assistance of the clerk, I'll read out what those are. Okay, 9:30 to 12 and 1 to 5.

Those were the three issues the subcommittee agreed to and on which I need the committee's approval. Are there any questions on that?

**Mr David Turnbull (York Mills):** It's my understanding that the two opposition parties did not agree with the Speaker to the idea of having the school children here and their using these premises, and that the Speaker has in fact acted without any authority in this matter. It seems ridiculous that these

facilities where we have television cameras and everything will not be available to us when the Speaker has been acting incorrectly. I would ask that we put it to the Speaker that we want to know under what authority he was operating, and that any cost of this should be borne out of his budget directly, not any other budget, with respect to ensuring that there are cameras and translation services.

**The Chair:** Mr Turnbull, I wasn't aware of that. We can certainly look into it. We were simply informed that the 5,000 would be here, and it was felt our hearings would be saner if we were not in the building. I can ask the clerk to get some answers and we can get back. Could we do this subject to that?

**Mr Turnbull:** The principle in play here is that the Speaker is spending money the taxpayers can't afford at the moment, and then we'll be incurring other expenses because it is essential that these hearings be televised because there are so many people who are interested in this issue.

**The Chair:** Would the committee be willing to leave that one with the Chair to explore with the Speaker? I can report back tomorrow. But if we could get approval on items 2 and 3—Mr Owens?

**Mr Stephen Owens (Scarborough Centre):** I thought we were voting. Are we just doing voice assent?

**The Chair:** Yes, and just to be clear, I'm going to check with the Speaker on number 1 and report back tomorrow.

**Mr Owens:** That's fine.

**The Chair:** But, yes, just a voice vote if people agree, then.

**Mr Owens:** I'm not quite sure why the third party has a problem with a literacy program, but I guess that's for its caucus to decide.

**The Chair:** I'll check into that and get back. The second and third points, then, for Monday, Saturday and Sunday: Agreed? Agreed.

We can then move on to the main business of the day. I would call Mayor June Rowlands from the city of Toronto.

1550

**Ms Dianne Poole (Eglinton):** Mr Chair, just prior to going to the presentation by the city of Toronto, I would like to make a motion.

I move that the Minister of Municipal Affairs be requested to appear before the social development committee to answer committee questions on market value assessment.

Furthermore, I move that the committee sit during the dinner hour, 6 o'clock to 7 o'clock, on Tuesday, December 1, 1992, for this purpose.

**The Chair:** The motion is on the floor. We must deal with it first. Is there any discussion on the motion?

**Ms Poole:** Yesterday I saw a precedent being set that I have not seen in my years at Queen's Park. We have a very

major issue here, a very contentious issue, and the minister chose not to appear with his ministry to answer our questions.

We have a number of questions that we want to ask of Mr Cooke. We want to know why he is not telling people the truth when he says this is not an MVA plan; we want to know why he's allowing the rights of the city of Toronto, a municipality of some 635,000 people, to be trampled upon; and we want to know why this minister has refused to protect the city of Toronto by ensuring that the cap for homes remains on at the point of sale.

These are just a few of the questions we have for the minister. We would like him to clarify confusing and contradictory statements he's made. I would request that if we meet during the dinner hour, 6 o'clock to 7 o'clock, we would have time to address these concerns and ask for answers from the minister.

**Mr Owens:** In terms of the discussion we had yesterday, it's my recollection—I did double-check the subcommittee report to refresh my memory—that while it's certainly a tradition to have ministers here at the opening of hearings, it's also been some level of tradition to have the parliamentary assistant appear on behalf of the minister. Again, it's my recollection of the discussion we held during the subcommittee meeting that it was the view of myself. I certainly don't recall any great umbrage being taken either by your colleague on the subcommittee or the member of the third party at the fact that there was not to be an appearance by the minister. If you looked at the agenda yesterday, there was no place on the agenda even for the parliamentary assistant to make remarks.

It was our view that the people who are important to this process are the people who are sitting in this audience, the people who have requested time to be heard, and that people had heard quite enough from the politicians.

You have an opportunity in question period if you think there is some level of contradictory comment being made in terms of statements coming out of the minister's mouth. In terms of getting on with this process so that people like Her Worship the Mayor of the city of Toronto can present her deputation, as she was expecting to do, we should just move on.

I'm certainly going to vote against this motion.

**The Chair:** I'll hear from a couple more, because I think the issue is clear and we want to deal with it. Ms Swarbrick, Mr Turnbull, and then we'll end up with Ms Poole.

**Ms Anne Swarbrick (Scarborough West):** I think Gord Mills is making good money as parliamentary assistant for exactly the purpose that he's here today, to represent Dave Cooke in this committee meeting. I think we should let him earn the money he's being paid as parliamentary assistant by his role here today. Let's get on with business.

**Ms Poole:** Yesterday he didn't answer our questions.

**Mr Turnbull:** Quite frankly, yesterday, when asked, he simply said that he couldn't answer and I'd have to wait until the minister was here. So whether he's making good money or not, he's not answering the questions.

**Ms Swarbrick:** On a point of order, Mr Chairman: I have the floor. Those two people have not been recognized, but since they have taken the liberty, I'd like to indicate, for people who have heard those comments, that Mr Mills

answered every appropriate technical question or every question of any type except for answering with regard to very much a political agenda that was being raised in terms of Mr Cooke's words, which should more appropriately be put to Mr Cooke in the House. Let's deal with the business before this committee and get on to hear from the mayor who has taken her good time to come here and deputate before us today.

**Mr Turnbull:** That just simply isn't true. I asked yesterday whether this was MVA. I was told no, this wasn't MVA. Then I asked the parliamentary assistant what it was and he didn't give me an answer. If that is not a technical question—it may be a very simple technical question—but it's still a question that isn't a political question; it's a matter of fact.

Quite frankly, we have a right to have answers from the minister, since he has made completely contradictory statements at various times and has erroneously suggested that he's giving protection to the people of Metropolitan Toronto. There has to be some ministerial accountability in this government, although we're hard pressed ever to see any.

**The Chair:** Final comment, Ms Poole, and then we'll put the question.

**Ms Poole:** I find it totally outrageous that members of the government suggest, first of all, that the minister doesn't need to be here, and that if we have any questions, we can ask him in the House.

The purpose of the committee is to have public hearings. It is also to make a decision on a very contentious issue. Every instance you look at when there's been a contentious issue of this nature, the minister has appeared to answer questions. To say, "Well, he didn't need to be here because these questions were technical," is missing the entire point. People are confused about where this government is.

They have abdicated their responsibility, they have shown no leadership and they now have to put their money where their mouths are and tell us how they stand on this issue. The minister should be here.

**The Chair:** I will put the question.

All those in favour of the motion by Ms Poole, please raise your hands.

All those opposed?

The motion is defeated.

#### CITY OF TORONTO

**The Chair:** We'll now turn to the agenda. I'd like to welcome Mayor June Rowlands from the city of Toronto to the committee. Again, you're no stranger to these environs. You have half an hour. Please go ahead.

**Ms June Rowlands:** Thank you very much and good afternoon, Mr Chairman, members of the committee and ladies and gentlemen.

You'll not be surprised, I am sure, if I tell you that my position and city council's does not coincide with that taken by the Metropolitan chairman in his statement to you last night. All city and Metro Toronto councillors are unanimous in their opposition to MVA.

May I point out that the city of Toronto takes just over 19% in taxes from its own assessment base, Metro takes over 26%, and the city of Toronto now pays 42%—a little more than that—of the cost of Metro government.



I know the Minister of Municipal Affairs says that Bill 94 is not full market value assessment, but the fact is that this scheme puts full market value assessment on selected sectors of our economy: vacant land, railway rights of way, hydro corridors, properties paying grants in lieu of taxes and residential properties when they are sold.

In his presentation last night the Metro chairman stated that protection measures available to homes and businesses are not subsidized by these properties. Nothing could be more inaccurately stated. Using the table found on page 12—it's right at the very back of the text, if you care to turn to it—a table that was produced by Metropolitan Toronto but accorded very limited circulation, you'll note that there is a \$57-million reduction in residential taxes. How does Metro explain where this huge reduction comes from, and who will pay for it? Similarly, industrial taxes are reduced \$20 million. Where does this come from?

It is very clear to me that certain classes of property have been assessed at full market value and that the taxes raised have been used along with the clawback of tax decreases to finance protection accorded to commercial and residential properties. Please note the increase of \$48 million for the category headed "Other"—that's vacant lands and all sorts of other things—and \$26 million for the pipelines and railway rights of way.

The following are some of the more serious impacts of the proposed MVA scheme and certainly not anticipated or addressed by Metro because of Metro's refusal to do a comprehensive economic impact study. They told us there were too many variables and they couldn't do it.

For the past six months city council has worked intensively with the rail companies to zone the 90 acres of rail lands and begin the process of building infrastructure: roads, bridges, parks, schools and eventually housing. The added tax burden of \$40 million on the rail companies puts this plan in serious jeopardy. Hundreds of jobs that could have started as early as next summer will now not be available.

The Toronto Transit Commission's taxes rise by \$2.25 million. GO Transit riders will pay 45 cents per fare more, \$240 per rider per year, if the extra tax burden of \$13 million is passed through to commuters. Ontario Hydro, already reeling under tremendous debt, will pay between \$30 million and \$40 million a year extra. The Toronto Parking Authority will pay an extra \$13 million on revenue of \$30 million, in effect putting 85 to 90 parking lots in the city of Toronto out of business.

These are some of the impacts that Metro failed to foresee as a result of its refusal to carry out the needed study.

Yesterday, at the city's executive committee—you'll find it here on 3A; it's the next page—there was a report before us that illustrated in a very small way what's going to be repeated many times. This is 2185 St Clair Avenue West, the stockyards, the only little green patch in the stockyards.

1600

The writer, the vice-president, Mr Goddard, writes:

"The above property is the 'park' to the east of our research building. It is the only green area on that stretch of St Clair.

"1992 realty taxes were \$4,870. Under MVA, because it is classified as vacant land, it looks as if our taxes will be

around \$20,000. We've had our doubts for some time about the cost of maintaining this land, which is used mainly by our employees at lunch time during the summer. The new tax level will be the final straw. Before I start tearing down the trees and ripping up lawns to turn it into a car park I wondered if you had any other solution."

It's been suggested that perhaps the railway lands should pave themselves over and turn themselves into a car park, and then the other suggestion was made that perhaps they could grow wheat there and become some kind of a farm.

Joni Mitchell wrote a song about just such an event, you know, and we thought it was funny because that of course applied to Los Angeles.

I am calling upon this committee to recognize the very real economic impact of moving to full market value assessment on vacant lands and rail rights of way and other properties, and I'm asking that you amend the legislation to ensure that these properties benefit from the same protective caps other property classes in Metro have been accorded. The minister has recognized that full MVA imposed on homes when sold is inappropriate, given his position that this plan is not full MVA, yet in terms of fiscal and economic impact, the vacant land, railway and utility issue is many times more significant and will hit with immediate force just one month from today.

In North America today we see once-proud cities in decline while their suburbs prosper. Compare what is happening today in New York, Detroit and many other American cities with the revitalized and prosperous inner cities of Paris, Lyons, Amsterdam and Frankfurt. MVA is the foundation of the property tax system in the United States, a country not noted for the vitality of its city centres.

We now have had three impact studies on the Metro-wide MVA, and each time the tax bite on the city of Toronto gets deeper: \$24 million a year in 1980; \$100 million a year with 1984 values. This year reassessment would have cost us \$180 million per year were it not for the temporary caps that bring it down to \$46 million for now. That figure was kept under wraps by Metro until the last minute.

Last night the Metro chairman's submission indicated that based on 1984 assessments, 63% of residential properties would get tax decreases and 37% increases, compared with 56% receiving decreases and 44% increases based on the 1988 assessment. What this indicates is the volatility of the assessment base in Toronto and, more importantly, the distortions that occur with each rise and fall of the real estate market. MVA does not and cannot be made to work in a highly volatile real estate market that rises and falls abruptly, exerting uneven pressures on the real estate and land markets.

When a city works well, property values go up. Since we beat back the Spadina Expressway, Toronto has prided itself on building the kind of city that works and residential neighbourhoods and retail strips that were the envy of city dwellers throughout North America. Although these neighbourhoods are densely packed together, many 80 to more than 100 years old and more often than not without parking or backyards, houses in Toronto have appreciated in value. That increase in value does not necessarily bring with it the ability to pay higher taxes. The value results from increased demand for space and higher densities. Long-time

residents and businesses may actually have less ability to pay as rents and values go up.

The millions in added taxes coming from the city of Toronto are not coming from the banks and the large corporations—not this time around anyway. By whatever magic the assessors have managed to make small business the prime 1988 victim—small businesses run by ordinary people—the large corporations, banks and department stores are mostly getting tax reductions.

Increases for small businesses are capped at 25%—it sounds sort of gentle—that is, 10%, 10% and 5% phased in over three years, but what it really means is a tax hit of approximately 30% in just over one year: 10% plus the usual 5% increase on January 1, 1993, and 10% plus the usual 5% increase on January 1, 1994. How many businesses in today's environment can absorb that level of increase, at least 30% within a year?

How much investment will take place in any business with a 30% tax increase hanging over its head? And there are hundreds of them. Remember that the full MVA tax will appear on every tax bill. The downside of the caps is that they create unprecedented uncertainty, and uncertainty is the enemy of investment.

It is cynical in the extreme for Metro to bemoan that senior levels of government have failed to approve large capital works projects funded through the public purse while at the same time promoting a tax scheme that will wipe out hundreds of jobs in small businesses and downtown development projects like the railway lands.

On the residential side, you may have been led to believe that only high-income areas will face tax increases, but that's simply not true. Councillor Pantalone's ward in Toronto's west end, north of the CNE, very much a mixed-income area, is the hardest-hit area in Toronto in terms of assessment increases.

There was a great deal of righteous fury at Metro council over how much the city is subsidized and how regrettable it is that the city's getting off so lightly. However, Metro council has refused debate about public school funding, a locally delivered but regionally financed system. Metro Toronto schools are financed by an assessment pooling arrangement not used elsewhere in Ontario, let alone in North America. It's totally unique to Metro Toronto. This completely ad hoc arrangement will cost the city of Toronto taxpayers \$316 million more than the city of Toronto needs for its own school system: a direct subsidy to three cities in Metro. The 1977 Robarts report recommends that area municipalities should be responsible for their own public school costs once their systems are mature, a condition which is long past in Metro Toronto. That's the Robarts report recommendations 17.4 and 17.5.

If any Ontario government has the mandate to question MVA, it is the present one. Since 1984 the NDP platform has opposed further introduction of market value assessment in the province. To give this government credit, it does seem to understand how disastrous MVA would be in Metro at this time. The government's fault is in its naïveté, believing that it is dealing with a compromise that will not lead to full MVA. This MVA scheme is an abuse of accepted public policy, an irrational hybrid with no equity justification at all. It

encourages urban sprawl, it taxes intensification, taxes public transportation and hastens the shift from environmentally friendly rail freight to truck traffic on already crowded highways in southern Ontario.

Bill 94 sets us on a course diametrically opposed to everything the Ontario government says it wants for the GTA. The government recently released a document entitled *Shaping Growth in the GTA*. The report notes, on page 55:

"At the very least municipal taxation must be made consistent with compact urban form, if not proactively supportive of it. At present, industrial and commercial property taxes in the inner area are high compared to peripheral areas. This has been an important force in the peripheralization and the growth of low-density, land-consumptive development. Taxation policy must be supportive of the urban form."

The government has announced plans to begin a study of a new property tax system for the post-1988 era, which is good. However, there is a danger that the negative impacts over the next five years will bring about a downward spiral, causing irreparable damage. The status quo, as inequitable as it is, is the system we should maintain while studying alternatives, because we at least know how it works. We shouldn't take the risks involved in this interim reassessment plan. The government seems to believe there are non-toxic dosages of MVA. The city of Toronto does not want to participate in a scheme that makes a gamble of our future.

The assessment base of Toronto pays 42% of Metro's and 15% to 18% of the province's revenues and has more impact on the national economy than New York and Chicago combined have on the national economy of the US.

#### 1610

As Jane Jacobs said, cities are organisms. They can be damaged irreparably by ill-conceived actions. This is why she has spoken out so strongly against MVA. We must all be aware that Bill 94 will allow the postponement of the next round of reassessment indefinitely. At the very least, the government should ensure that a reassessment is required within a clearly indicated time frame.

If accepted public policy is to promote intensification and discourage sprawl, we should be looking at alternatives that better reflect the cost of providing services to property. As a very perceptive brief from Mr John Newhouse of Tavistock, Ontario, noted: "The longer the distances that infra- and super-structural municipal services must traverse—sewer and water lines, pumping stations, road upkeep, sidewalk repair, garbage collection, policing trips and police substations, fire truck trips, firefighting substations, mail delivery, school busing, snow removal, hydro lines, upkeep etc etc—the higher the cost per property to service."

The present situation demands not only the cost of servicing to be reflected in assessment, but also that an element of stability be introduced. The property tax working group of the Fair Tax Commission will be recommending study along these lines. That's where we should be heading. Bill 94 should be voted down now or, at the very least, deferred until the Fair Tax Commission has reported.

We should begin to examine cities that are successful and not cities headed for failure. Assessment systems are the basis of that success or failure. We should begin to examine cities that are successful, cities that have maintained vital downtown cores



over decades of time, cities that renew infrastructures, maintain a stable and positive business environment, encourage the arts and sciences to flourish.

**The Chair:** Thank you very much, Mayor Rowlands. We'll move right into questions. Mr Stockwell.

**Ms Rowlands:** I thought you would enjoy that brief, Mr Stockwell.

**Mr Chris Stockwell (Etobicoke West):** I will say about the city of Toronto and its mayors—and I welcome you—that they are consistent in their position on market value assessment.

**Ms Rowlands:** Absolutely.

**Mr Stockwell:** That troubles me, though, the consistency of the argument, and I would like to ask a couple of questions of you. I can't remember ever hearing anything different from the city of Toronto over the last—

**Ms Rowlands:** Oh, this is a little different.

**Mr Stockwell:** Well, marginally different. The mayors change sometimes, but the message seems to be the same, that it's not the right time for market value assessment, it's not a fair system, it's fundamentally flawed and the city of Toronto will be hammered in the most unreasonable and unfair way.

You mentioned that the status quo is the best route to go right now. That doesn't shock me, considering the fact that the status quo is the best from a money point of view for the city of Toronto. But I was on a committee at one time at council which in 1989 asked the city of Toronto and the city of North York to come back with an alternative plan; they were given a couple of years to come up with a plan that would do away with market value assessment and implement this plan that is sort of an esoteric, cosmic discussion that takes place between the city of Toronto members that never seems to materialize. What happened? Why don't we have that plan?

**Ms Rowlands:** We do. The plan took two years to put together. It was a cooperative plan between North York and ourselves. A committee worked on it for a long time. It was taken to Metro council. Metro council sent it, I believe, to the province for comment and it hasn't been seen since. It was a plan based to some extent on unit assessment, and it is certainly here. I'm sorry, Mr Stockwell, that you're not aware of it.

**Mr Stockwell:** I was aware of that. I just was aware of the fact that it wasn't adopted by Metro council, and the city of North York mayor, who was part of the process to put the plan together, doesn't support the plan.

**Ms Rowlands:** I don't know whether he supports it or not. I think he'd forgotten that it existed.

**Mr Stockwell:** Oh no, he was very public about that: "No, the plan stinks. It's not a good plan," I think was the way he put it.

**Ms Rowlands:** His council supported it and the city of Toronto council supported it, so I'm surprised he said it stinks, but occasionally I guess he does disagree with his council, as we all do occasionally.

**Mr Stockwell:** So your idea of a fair market system for raising taxes is some hybrid of MVA and unit assessment?

**Ms Rowlands:** There are a number of ways it can be done, and I have suggested one way that it should not be done: We should not pattern ourselves after the system that is used in most American cities that is resulting in real problems now.

**Mr Stockwell:** You're really clear on that.

**Ms Rowlands:** Yes, I am. I'm suggesting that we should take a look at those cities that have remained successful over decades, and I've named two or three of them. But what we must have because of the volatile nature of the city of Toronto market—it may be that MVA works very well in smaller places where you don't have this up and down, the theory being that if everything rises equally and falls equally, it's the relative value between properties that counts and that doesn't really change; everybody goes up or everybody comes down. But that's not the city of Toronto. It rises in peaks, it falls in peaks, and of course it's distorted. We're dealing with a distorted 1988 and applying it to a distorted 1992.

But you're asking me what we must do. In my view—and I'm not an expert on this—we have to put in a base that is stable, some base, and that perhaps simply has to be property dimension, size of house and cost of servicing. The large lots in the municipality that you occupy would cost far, far more than thousands of little houses in the city of Toronto sitting on 20-foot lots.

**Mr Stockwell:** But I've heard this before. For 40 years I've heard this, and I'm waiting for the study to come through.

**Ms Rowlands:** Of course you've heard it before. Do you think the situation has changed? Do you think suddenly the lots have all gotten big in the city of Toronto and you've shrunk? Of course you haven't; the situation's the same.

**Mr Stockwell:** I'm just waiting for the system. Where's the system? For 40 years we've been waiting for this system. Every time we debate this—1984, 1988, 1992—I have a mayor from the city of Toronto saying, "What we need is a different system," but no one seems to want to give me the system.

**Ms Rowlands:** As I said, the city of Toronto did bring forward a system with North York. It has disappeared, but it was a system where we felt—

**Mr Stockwell:** So the only really good system's disappeared?

**Ms Rowlands:** No, I haven't said it's the only really good system. There are a number of ways to do it, but I would suggest that this is the worst possible way. When one comes to think of it, what does this do? The city of Toronto takes a little over 19% out of its base. Metro takes 26%. This province relies on it. It isn't the city of Toronto wanting more money out of its own base. It affects Metro, it affects—

**Mr Stockwell:** You're arguing again. I'm not asking you that question. You were very clear in your statement about why this is a terrible system; I'm buying the fact that you think it's terrible. My question, though, is still on the table from 1982.

**Ms Rowlands:** I answered it.

**Mr Stockwell:** What is your alternative—

**Ms Rowlands:** I answered it. Mr Chairman, I answered it.

**Mr Stockwell:** —and all I see is a system that apparently has been lost.

**Ms Rowlands:** No, I have suggested that a base has to be added in. You haven't made your point. A base must be there which gives some stability to the kinds of fluctuations that occur, based on, I think, the cost of services to that particular municipality if the services are particularly expensive, and they are. We are now undertaking a study to compare the cost of servicing a residential property in the city of Toronto as opposed—perhaps we'll choose Etobicoke; we were thinking of Scarborough. Who knows? There has to be something there. There also has to be something to recognize the size and the dimensions of properties, then some proportion, perhaps market value, I don't know. Perhaps it shouldn't be market value at all.

**Ms Poole:** Thank you very much, Mayor Rowlands, for your presentation today. You asked in your summary for the government to reconsider this, to defeat it or at the very least to defer it. Unfortunately, the vote today showed that every government member voted in favour of this particular proposal, including four city of Toronto cabinet ministers. Three NDP members who in the Legislature have said they are opposed to market value assessment did not vote at all; they did not show up for the vote. So I'm not sure I'm overwhelmingly confident that the government will reconsider. The best we may be able to do is to get some amendments to at least try to salvage the city of Toronto in the meantime.

1620

There are a lot of questions I could ask you about impact studies and the decline of our city, which you articulated so well, the volatility, but I'd like to start with one on the government's position on market value assessment.

They have said repeatedly that this is not market value assessment, they have said it is not full market value assessment, but it is my submission that it assesses all houses on the point of sale at full market value assessment, that all new construction will be full market value assessment, that all vacant lands will be full market value assessment, that railway rights of way, GO Transit, municipal parking, hydro are all on full market value assessment, that all expansions and additions to businesses would be on full market value assessment, and new businesses—not where one business has been sold to another but a newly created business going into a vacant space—would be subject to full market value assessment. Is it your prognosis that over the next five years a significant portion of the city of Toronto will be forced under full market value?

**Ms Rowlands:** Of course it will, there's no question about that, but before that really happens we're going to see decline in the city of Toronto, because people will simply move out. That's the history when this sort of thing occurs. There's no question about it. You see, to pay for it, to pay for the caps, that \$57 million which is the decrease in the tax for the residential area, that has to be paid for somewhere. So it's being taken right out of the pipelines and hydro and GO and

the TTC and all the public transportation. It's being taken out of vacant land.

Then gradually they're hoping, as of course the income begins to come in from the imposition of full market value in the situations you're talking about, that some of the decreases people haven't been able to get will slowly factor in. So you're absolutely right; the further we go on in this five years, the closer we come to a full market value, and it's going to be extremely difficult to roll that back. It's extremely risky. We're risking the core of this metropolitan area. We're risking it, and it is the engine, and it does pay for a lot of government in this part of the world.

**Ms Poole:** The second question I'd like to ask you relates to the volatility. We have had members on Metro council changing their vote like ping-pong balls.

**Ms Rowlands:** They're expressing volatility.

**Ms Poole:** Exactly. Mike Colle, using 1984 values, voted in favour; using 1988 values, he voted against. Mel Lastman voted against it. Now he's in favour because all his beautiful big office towers in North York City Centre, by some miracle, have been protected and they all get decreases. Talk about a fix.

Maria Augimeri has changed her vote three times. Joe Pantalone, the author of this compromise plan, voted against his own plan. I think you're absolutely right, what you've expressed in here. This in itself shows the volatility.

**Ms Rowlands:** Yes. Political representatives, of course, are voting on how it affects their particular constituents, and one can expect this. Joe Pantalone's ward has been very heavily hit—unexpectedly, because it's full of small houses, and it was not expected that this would occur in the lower-priced housing areas of the city of Toronto, and that's precisely where this has come in; it's most unfortunate.

But the small strip commercials really appear to have been reassessed on the highest and best use based on those speculative land values of 1988, and to suggest that those businesses, if they try to sell, won't be seriously appreciated by that overhang of that huge reassessment is just nonsense. It's going to sterilize those buildings and those businesses for years. It has a very serious impact.

**The Chair:** I have three questioners left, and I know we're getting a little tight. The parliamentary assistant, Ms Swarbrick and Mrs Marland.

**Mr Gordon Mills (Durham East):** Your worship, good afternoon. At the top of page 12 of your submission—I'm just going to ask you your comments—it's dated October 21, 1992. We had Mr Tonks in here yesterday, who said those figures were not the final ones that were arrived at; the final ones were composed on October 29. Also, at the committee yesterday, he indicated in response to a question from Ms Poole about subsidization that he felt the figures on October 29 would indicate a subsidization net transfer of \$15 million. I just wonder how you would like to comment on that.

**Ms Rowlands:** The numbers that I have are these numbers. I don't know what ones you're referring to on October 29. Oh, you mean in his brief?

**Mr Mills:** Yes, yesterday.



**Ms Rowlands:** I think these are extremely accurate. If you look at just the first group of numbers, under the heading "Group" you have residential, commercial, industrial, other and then the pipelines and what not. If you go along two columns, you'll see a decrease of \$3 million under "other."

You all know the story of the city of Toronto not being able to get hold of the tapes. Finally we got them, a number of weeks afterwards. I don't know whether you've heard the story. It's kind of interesting. We had to go to freedom of information to get them. Then when we began to run them, that \$3 million showed up, and that represents the small agencies under the United Appeal, all the little small arts groups, all the little theatres. They were all in under "other" and they would have all gotten that 100% increase at the beginning of January, so they were pulled out and capped, and that's really what that \$3 million there is.

These figures obviously were compiled after that occurred. My feeling is that they're fairly up to date, but if there is some variation, it's going to be very slight, because this doesn't reflect the 10%, 10% and 5%, which was the latest wrinkle. This is the effect three years later when in fact the full 25% cap is there, when the full 10% is there on residential. That's what these figures represent. I'm not sure what he was talking about, but you can see quite clearly that there are \$57 million fewer coming out of residential, \$20 million fewer coming out of industrial. Then if you take a look at "other," there are \$48 million extra coming out of there and out of the pipelines, \$26 million.

**Mr Mills:** Your worship, thank you very much. I'd just like to briefly turn to page 4 of your submission, paragraph 2, where you're asking that the legislation be amended to benefit from the same protective caps. My comment is that Metro can provide those protective caps through our plan if it so desires.

**Ms Rowlands:** We're simply saying, because of the tremendous impact it will have on all those jobs in the railway lands and the tremendous impact it has on GO and the impact it's going to have on the railways, and they won't be as competitive with the trucking industry, so all that traffic, the extra tax on Hydro, for heaven's sakes, \$30 million to \$40 million—we weren't able to establish that exactly. These are huge impacts. That's going to be right across the grid. The whole Ontario Hydro grid is going to have to pick that up. I don't know how.

When one looks at these impacts that are so severe, we're simply saying, "Cap these," because the chairman in his submission to you said that in fact those properties are not subsidizing. The statement is right there. I think he's wrong. But he is saying those properties don't subsidize anything, and if they don't, then Metro should be perfectly happy to cap them.

**Mr Mills:** Okay. Thank you very much.

**Ms Swarbrick:** Hello, Mayor Rowlands. Good to see you. The member for Eglinton took great pains to refer to the vote in the House today, and of course didn't refer to the Liberal members who were absent today, nor to the fact of Mr Mancini standing up to vote against this. We learned yesterday that in fact when he was Minister of Revenue he wrote to the Metro government encouraging it to go ahead and get

things under way to move towards market value assessment as well.

**Ms Poole:** Mr Chair, on a point of order: Just to make the record perfectly clear for Ms Swarbrick, I made the reference that all of the government city of Toronto backbenchers were absent. You will note that all city of Toronto members for the Liberal caucus were present and voted against this infamous plan.

**Ms Swarbrick:** And I would note that when they were the government, they wrote to Metro encouraging Metro to go ahead with exactly the same thing that Metro's now—

Interjections.

**Ms Rowlands:** I'm sorry, I must correct that, Mr Chairman. At the time the Liberals were in power I had an absolute commitment from Bob Nixon at that time that they would not go ahead if the local municipalities resisted—any of them did—because at the present time the assessment authority rests with the local municipality. What this does, as you move into this system, is you are depriving the local municipalities of that authority, because this isn't just what it seems to do.

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**Ms Swarbrick:** That does fly in the face of the letter we learned about yesterday that was written by Mr Mancini to Mr Tonks in January 1990.

But in any event, I want to get to your statement that you would like us to maintain the status quo, because at least we know how it works. I would imagine that sparks must fly between you and Mayor Trimmer, whom we heard from last night.

**Ms Rowlands:** Yes, we occasionally cross swords.

**Ms Swarbrick:** Mayor Trimmer last night told us about inequities that sound just as unequal as the kind of inequities you've been describing to us today, which I certainly don't deny. She talked about houses in the city of Scarborough worth \$300,000, where people pay \$3,000 more in taxes than equivalent-valued houses in the city of Toronto. She talked to us last night about comparing many small Scarborough lots where people are paying more than \$5,000 with some lots in the city of Toronto where people might be paying in the neighbourhood of \$1,000. I'm wondering what you say to her when she throws back at you the inequities, such as the examples she gave us last night.

**Ms Rowlands:** There are those kinds of inequities that exist in the city of Toronto. Most of the city of Toronto isn't paying low taxes. Most of the city of Toronto houses, because they're 80 years old, have been fixed up, and they're reassessed when they're all fixed up. And there are houses that are monster houses. You hear the whole monster-house discussion in the city of Toronto, houses that have high taxes, so there are inequities within the city of Toronto.

But when one looks at the situation as a whole, when one looks over the whole metropolitan area, when one looks at the core of the city that drives this Metropolitan area in terms of tax revenue, then the question becomes much wider and broader. The lots in Scarborough are large. I am sitting on a 50- or 60-foot lot. It's 100 feet or 110 feet deep. I'm paying an extra \$2,000 over a house which is valued at the same price in the city of Toronto that's paying less taxes, which is

sitting on a 20-foot or a 25-foot lot. It's very difficult, I think, to draw these kinds of comparisons. One has to look at the impact on Metro Toronto and the tax base, and the tax base of this government.

**Ms Swarbrick:** I think the point being made is that right now under the present system, and even under what we're looking at moving to, there are clearly inequities on both sides. You've made the statement also—

**Ms Rowlands:** Yes, but one has to look at what is more destructive.

**Ms Swarbrick:** You've made the statement also that you believe this government is naïve if we don't think that this system would move us towards MVA.

Given that what we are doing is to point out that we'll very clearly be sitting down with Metro, and with the other communities such as yours, between now and 1997 to do a full study of the social and economic impact of future changes, given that we're going to be examining the soon-to-be-expected report from the property tax working group of the Fair Tax Commission, given that we're going to be dealing early in 1993 with a report from the Ministry of Education looking at other ways to possibly finance education, given that we're engaged currently with the various municipalities in disentanglement discussions to look at whether there are other ways to finance things like welfare and to shift the load in a fairer way, given the GTA report that was referred to last night, and given the Sewell report we've got now, would you not say that someone would be naïve if he was sitting back with that kind of hope that it wouldn't move towards MVA and be doing nothing, but that in fact those are the very kinds of things that need to be done to look at how one can move to a truly proper system?

What I'd like to ask you is, do you have any concrete suggestions as to anything else in addition to the things I've listed that you'd like to see our government do in the deliberations over this next assessment period to better make sure that really all of the information needed will be available to bring down a fair property tax system in 1998?

**Ms Rowlands:** What you've said is all very admirable. It will take a long time to do those things, and in the meantime it's inexorable. We just move step by step towards full market value. What we continue to experience, while that is going on, is the loss of our strip commercials, the increase in housing prices, the increase in taxes on houses, the decrease in people's equity, because there's a clear relationship between taxes and the selling price of houses.

What you are suggesting to me is that there's a heck of a lot wrong. There's something wrong with the way we fund welfare. There's something wrong with the way we fund education. We've got to look at all of these very factors. We want to see what the Fair Tax Commission is going to say. If there's all that to be done, for heaven's sake, why move in this direction when I think, by what you're saying, you're saying this is deeply flawed.

**The Chair:** Excuse me. I'm afraid I'm just going to have to interrupt, because we're a bit over time and Ms Marland has the last question. I regret, but if we don't try to stick to our timetable we're going to be in big trouble at the end of the day.

**Ms Rowlands:** You'll miss dinner.

**Mrs Margaret Marland (Mississauga South):** Mayor Rowlands, speaking as the member for Mississauga South—and of course Mississauga is the largest municipality with market value assessment—and also as a former seven-year councillor in that city before I came here seven years ago, I'm very well aware of the issue and how it becomes even more convoluted with regional government. I am, personally, totally opposed to market value assessment, based on our experience in Mississauga.

**Ms Rowlands:** Or anywhere when it's been tried. It's really interesting; it's consistent wherever it's been tried.

**Mrs Marland:** Yes. So I'm just wondering whether after one year in your mayoralty role in the city of Toronto, and based on your current experience, this is now the time where you might agree with some of us that perhaps regional government has had its day.

**Ms Rowlands:** I'll answer extremely briefly, Mr Chairman.

**The Chair:** Thank you.

**Ms Rowlands:** I was very surprised when I was talking with a business group at a breakfast meeting that it came up; the business community brought it up. You can go into any crowd today, anywhere, and say, "We're overgoverned," and everybody cheers. There is a really strong feeling out there that we've got too much government.

Compare our population to California. California's got a state government. Think of the number of governments we have across this country, if you really want to think in terms of overgovernment. But as far as this area is concerned, we have to get into some kind of restructuring. There's no question about it.

It isn't that the city of Toronto wants to get out and keep its big assessment base all for itself. That's not what we're talking about. But what this argument at Metro council convinced me of is that the outer municipalities, the municipalities of Etobicoke, Scarborough and North York, have no real understanding of the problems of the inner cities, which are the city of Toronto and the two little cities beside us. Somehow or other those inner cities have to come together and be recognized and, obviously, the GTA and the tremendous developments going on there in the GTA and the regional government of Metropolitan Toronto—somehow there has to be a structure to recognize that and a structure to recognize those inner cities.

You know, it's a lot of nonsense. Metro does some roads; the city of Toronto does other roads. Metro does some parks; the city of Toronto does some parks. We've suddenly decided who it is that operates the sidewalks. I've forgotten who it is; I think it's us. But who does the little brick strip between the sidewalk and the road? Which sewers—I mean, it's nonsense, and the amount of time.

We're told we can't have trolley buses because it's going to cost too much money. Nonsense. We're paying \$316 million more than we should be for education and we can't put \$50,000 a year into some trolley buses when they're pollution-free and they're right under people's bedroom windows as they go up streets with very small little lawns.

In the city of Toronto and those other two municipalities we must have far more jurisdiction to look after ourselves so



that we can save this great city, because we have something tremendously unique in the city of Toronto.

I said I'd be short. We need restructuring. The municipal setup in this area needs restructuring. Given the pressure of population growth, the pressures now of what is happening downtown, the exodus of people now, we've got to somehow restructure so that we can begin to tackle those problems. It isn't keeping it all for us. It's nothing like that.

**The Chair:** Thank you very much, Mayor Rowlands, for your presentation and answering all of the questions.

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#### CP RAIL SYSTEM

**The Chair:** I would now ask the representatives from CP Rail System if they would come forward.

While they are coming forward, I'd just indicate to committee members that in the interests of ensuring that we stick to our time, I'll recognize one person from each caucus, and as time is available, others, but we're going to be in some difficulty if we don't follow that pattern.

Welcome to the committee, and perhaps one of you might introduce the members of your delegation and begin your presentation. We have half an hour.

**Mr Barry Scott:** My name is Barry Scott. I'm the chairman and chief executive officer of Canadian Pacific Railway. With me are Mrs Katharin Braid, who is our chief legal officer, and Bardo Marcolini, who is the president of the United Transportation Union, a union that represents the majority of our train service employees.

We would like to speak to you today. I wish to make—

**The Chair:** Excuse me, if I might, just for the purposes of Hansard: and the gentleman at the right end is?

**Mrs Katharin Braid:** Ron Mason of CP Rail.

**The Chair:** Thank you. Please go ahead.

**Mr Scott:** I'd just like to make brief opening remarks and then I will ask Mrs Braid if she would also briefly review the material that we have brought to the committee to submit to the committee, and then Mr Marcolini might like to make some observations too before we hold ourselves available for questioning.

We're here today because we want members of the committee to appreciate the deep concerns that we have about this taxation measure. I'm told that Metro Toronto chairman Alan Tonks has called this a return to fairness. If Chairman Tonks's idea of fairness is what he proposes for the railway rights of way in Toronto, namely a 220% increase in taxes beginning next year, then I never want to learn what he considers unfair.

As applied to the railway rights of way, this reform is bizarre. It will be destructive not only for the railway industry in Toronto but also for area manufacturers and shippers served by the railways.

Paul Tellier, the president and chief executive officer of Canadian National Railway, and I have written jointly to the Premier of the province and to Chairman Tonks and said that we cannot help but look upon this approach to taxing railway rights of way as a huge disincentive to future rail investment leading inevitably to reduced railway facilities, reduced services and reduced choices for shippers.

This tax approach will be such a gross burden upon the railways that if it were applied in the same manner across Canada, the industry would be forced to shut down. If Ontario and Toronto want a viable, effective railway system to serve industry in this province and help that industry be competitive in reaching North American and offshore markets, this is a very strange way to make the point. As it stands, this piece of legislation is a major signal to the railways that you, who are the members of the government, either don't understand the positive role the railways can play in the economy or, worse still, you don't care. It is the only way we in the railway industry can read this move.

Our brief that Mrs Braid will comment upon is not about the so-called railway development lands. What we are talking about is the property used fully for railway purposes—in effect, to move traffic to market. That's what this brief is about. Mrs Braid, you might like to review it.

**Mrs Braid:** CP Rail System appreciates the opportunity to present its views regarding the proposed implementation of market value assessment on railway rights of way in Metropolitan Toronto. I will be brief. I will not be reading the large brief that you have a copy of. I will make three very simple points.

This tax will have a serious negative effect on the railway industry and its users in Ontario. The process by which Metro's assessment plan and this amendment have been open for public debate has been inadequate. The tax on railway rights of way is grossly inequitable.

On the first point, this tax will be a crippling disincentive to future investment by railways in rail infrastructure in Ontario. This will affect not only CP Rail System and its employees but all those businesses which depend on the railways and their employees, and potentially will affect GO train passengers. It will jeopardize thousands of railway jobs in Ontario. It will jeopardize \$1.3 billion spent by the railways annually on purchases and payroll in Ontario. It will significantly reduce railway services available to businesses in Toronto. It will force business across the border into the United States, which, by law, cannot tax railway right of way in this manner. It will force GO Transit to either raise fares, seek subsidies or cut back services. Two of these three possibilities will increase automobile traffic into this city.

The process by which Metro's assessment plan has been considered has not allowed those affected by the plan any effective opportunity to make submissions. Metro did not conduct an economic impact study that included railway properties. CP Rail System was not provided any market value data upon which to conduct its own impact analysis until one working day before the beginning of a public hearing. The one-day hearing was unfocused and dominated by individual ratepayers who could only argue against market value assessment in concept rather than discuss the particular formula planned by Metro, because in fact no formula had been made public until after the hearing. The formula adopted at the 11th hour has been moved on to the provincial government for approval with no real opportunity for analysis or discussion by those most seriously affected by it.

CP Rail System contends that the passage of enabling legislation, Bill 94, would legitimize a fundamentally flawed process. With respect to the equity of the tax on the railway

rights of way, I want to point out first that CP Rail is not a public utility. It is an investor-owned company in the Toronto area. CP Rail owns roadways or railway rights of way, other properties used in conjunction with the operation of the railway and a 50% interest in the Toronto Terminals Railway, whose principal assets are Union Station and the tracks used for the GO Transit commuter service.

The fact that both CP and CN's railway systems in eastern Canada are in serious financial trouble has been recently highlighted by CP Rail's announcement of its intent to abandon operations over all its lines east of Sherbrooke, Quebec, and through the Atlantic provinces, and by the report of CN's employment reductions of 10,000 jobs.

Railways are taxed not on the use they make of the land occupied by their tracks but on the value of land owned by others adjacent to them. Even though we don't need police protection the way a shopping mall does or snow removal the way a housing subdivision does, our property is taxed as if we did. Now we learn that we are expected to pay a much higher tax increase than our neighbours who do use those services.

Major tax burdens have already been shifted to the railways. In 85 communities which have undergone reassessment since 1989 our municipal property taxes have gone up a staggering 55%. Metro's proposal would set a far more damaging precedent that could be used by other municipalities in Ontario and spread to other provinces. This result could well bring rail services in Canada to a standstill.

In 1991 CP Rail System spent more than \$700 million and paid more than \$12 million in property taxes in Ontario. In our brief, for your reference, at page 3 is a summary of the property taxes payable by CP Rail System in Metro Toronto in 1992 and our estimate of the 1993 taxes should the market value assessment formula contemplated by Bill 94 be implemented. It should be noted here that no part of the lands commonly referred to as the railway lands or the railway development lands is owned by CP Rail System, nor are any taxes on those lands included in this chart on page 3. The tax we are talking about is the tax load on properties owned solely for the purpose of operating a commercial right of way.

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That tax increase is slated to be \$12.8 million or about 220% in one year. The total tax payable in the province of Ontario in 1993 would exceed CP Rail's operating income from its entire rail system for 1991. Meanwhile, property classifications of other businesses in Metro Toronto are protected by a cap which limits increases to 25% over three years with a subsequent two-year moratorium. After five years other businesses will still have moved only a quarter of the way towards market value assessment, while railways will pay full increases from day one.

Our opposition and our anger with respect to Metro's market value proposal is rooted in the history of rail property taxation in Ontario. Ontario's Assessment Act dates back to 1869 when railways were the dominant form of transportation. Today, railways compete rather than dominate. There is world competition in the markets for Canadian commodities and plenty of surface carrier competition among railways, among truckers and between railways and truckers.

However, legislation respecting the assessment of railway rights of way in Ontario has remained virtually unchanged in this century. Ontario governments have tried three times since 1963 to come to grips with the issue of the tax treatment of the railways. Each time it has been concluded that the practice of assessing railway rights of way based on assessed values of neighbouring lands is outdated and inequitable. The Smith committee in 1967 recommended that railway rights of way be totally exempted from property and business occupancy taxes. One commission and two committees have noted that while total railway rights of way may add up to an impressive number of acres, that land does not have market value comparable to its neighbours.

That is because railway rights of way are long strips of unserviced property, 30 metres or less in width and whose location is regulated by legislation and which must in law be used solely as a railway, unless an abandonment order is obtained. Government approval is required for abandonment of any right of way as an operating line of railway. This legislation also limits the amount and controls the timing of such abandonments. If and when railway activity ceases, the size, the shape and the access restriction of rights of way generally prevent their development for other purposes. Abandoned rights of way are typically of very little value to adjoining property owners as they lack access and municipal services. Rights of way are not even comparable to utility land such as corridors used by hydro commissions. Those public utilities have a captive clientele and a guaranteed rate of return on expenditures. CP Rail does not.

Railways finance and build the roads they run on entirely from their own resources. Unlike any other transportation organization, railway companies maintain their rights of way at their own cost, including services such as security and snow removal. Highways are not subject to property tax. Commercial truckers do not have to cover such costs when they set the rates they charge to their customers. Why should railways now pay property tax increases many times higher than those imposed on other businesses and infinitely higher than the 0% increases imposed on the rights of way used by their competitors in the trucking industry?

If you'll turn to page 5 in our brief, which actually is after page 4 and before page 6 but has no number on it, you will find a coloured graph which will indicate the taxes paid on the public right of ways and what increase they will incur, and that paid by adjacent property owners and that to be paid on the CP Rail right of way.

Metropolitan Toronto's proposed tax assessment changes treat railways inequitably and ignore advice consistently given whenever the Ontario provincial government has examined the issue in a comprehensive manner.

Railways are an economical, fuel-efficient and environmentally responsible form of transportation which offer unique value and choice to Ontario's job-providing industries and to riders of the GO Transit system. Doubling or tripling the municipal tax burden on railway facilities at a time of nearly universal fiscal austerity will serve only to make Ontario unattractive for the allocation of private or public investment in activities which depend on railway transportation, and will expose thousands of railway employees to an even less certain future than they enjoy today.



Successive Ontario governments have recognized the need to review, amend and update property taxation. An independent body known as the Fair Tax Commission was established almost two years ago, and the commission's property tax review subcommittee is scheduled to release its recommendations within 10 days. In the short term, it is inconceivable that far-reaching decisions will be made by this committee in the absence of the Fair Tax Commission's findings.

CP Rail System recommends that Bill 94 should be amended to provide that the railway rights of way not be subject to assessment for realty tax purposes, and that the other lands used for railway purposes be taxed comparably to other designated classes both in their market value assessment and in the application of the cap on that taxation.

In the alternative, as an interim measure, we would recommend that you amend Bill 94 prior to its enactment to create a distinctive railway property class for the roadbeds or rights of way. The property owned by the railways, other than the roadbeds, should be taxed comparably to other designated classes.

Or we recommend that further consideration of this legislation should be deferred until Metro has completed and publicized a full economic impact study of its plan and until after the Fair Tax Commission report on property tax is released and until all concerned have been provided with time to analyse and comment on the impact study and on the Fair Tax Commission report.

We have appreciated this opportunity to speak to you.

**Mr Scott:** Mr Chairman, perhaps Mr Marcolini would like to speak.

**Mr Bardo Marcolini:** I don't usually sit at the same table with CP and support its causes but in this thing here I have to.

I have a problem with it. We, the United Transportation Union, sat down with CP and CN and we negotiated crew consist, which is a conductor-only train, to give them relief so we could save some jobs and have them competitive. It's very difficult then when you come along and you find out later that all of a sudden, where you give up a man through attrition to make the railroads competitive and try to keep them in business and save our jobs, this market value assessment—we're talking about \$30 million and \$40 million.

I was in Montreal last week. I'm not a very eloquent speaker; I don't know figures or anything like that. I've railroaded since 1948 and I know the facts of life today. The railroads today are in bad shape, and unless you people put us on a level playing field we are going out of business.

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If you think market value assessment is great, what are you going to do with 16,000 or 17,000 people who aren't going to be paying any taxes? That's not a threat. That's the facts of life. You people better get out on the property and take a look around. The east of Montreal is gone. They're talking about secondary lines in Havelock, Owen Sound, Sault Ste Marie. You know, it's not a game. I'm telling you that you better take a hard, long look at this.

The thing that I have a problem with is, how come the railroad is the only one that isn't capped? I'm going to gain

out of this. I live in Etobicoke. I'm going to make maybe 50 bucks. Big deal.

Are you people trying to put the railroads out of business? That's what I'd like to know. Because I tell you, you're doing one hell of a job if this bill goes through. That's all I have to say.

**The Chair:** Thank you very much. In the time that we have left, I will hear from a representative of each of the parties. I have Ms Swarbrick, Ms Marland and Mr Grandmaître.

**Ms Swarbrick:** I would like to thank you all. I think you've presented an excellent case of what is the most disturbing part of the Metro proposal to me. I know I've heard from my own constituents. I've heard from other MPPs in the House. Brad Ward from Brantford was raising the concern with me today.

Of course our government has been hoping and wanting to be able to treat the proposal from Metro council as we've treated the proposals from other municipal councils around the province of Ontario, and deal with the Metro government as a mature and autonomous body that has presented what we would like to believe is a reasonable compromise at this point in time, subject to the longer-term work that needs to be done to make radical changes, hopefully for the 1998 assessment period.

In attempting then to try and deal with the concerns that you've raised, of course, we have put into the legislation before us the ability both for Metro to apply protective caps to the rail lands and for Metro to create a public utilities category, as you're asking for, and we're strongly encouraging them to do that.

The question I have for you, because I have a hard time understanding why the Metro level of government wouldn't want to also share the same kind of concern that we do and that our government does in terms of what you're putting forward—and unfortunately, I wasn't here when Metro Chairman Tonks was presenting to us last night; I was up in the House at the time. I assume you're a big enough body. Have you met with him? Have you met with Metro council? Number one, what is it they're saying to you in terms of why they're not willing to make some accommodation, to put caps on or to declare a special public utilities category for your situation? What are they saying to you?

Number two, what are your strategies to try and help? I would certainly like to work with you to make sure they do make some changes to accommodate your concerns.

**Mr Scott:** We have asked Metro Toronto. I've written, as I indicated to you earlier, to Chairman Tonks. We have requested a meeting with him. This afternoon we had a call indicating that there was a prospect of setting up such a meeting. I'm not sure just how quickly. I can't yet tell you what the response would be.

I just make the observation, however, that given the seriousness of this and the impact that both of us have spoken of, I find it, I have to confess, strange on the part of representatives of the government to pass this problem across to Metro without an apparent concern that manifests itself in some action on your part.

**Mrs Marland:** Exactly.

**Ms Swarbrick:** I've expressed what part of the action is, our action in terms of, since it is their proposal, making sure that there are abilities then for them to deal with what your concern is.

I know that the Minister of Revenue and the Minister of Transportation are most concerned and I understand that you've been encouraged to meet with them. I know that they very much want to sit down and look at meeting with you to see what they can do to help. Is that meeting set up yet, do you know?

**Mr Scott:** It hasn't resulted in anything and I have to say the same thing results from the letter that Paul Tellier and I wrote to the Premier. I've had no response to that either.

**Ms Swarbrick:** I know that those two ministers want to meet with you, so perhaps we can make sure we follow up on that.

**The Chair:** I'm going to have to move on to Mrs Marland.

**Mrs Marland:** If I didn't know I was wide awake, I'd think I had died and gone to heaven. I never thought I'd see the day when somebody from a union would come in here and tell the government members to get out into the real world. That's the message we're trying to tell the government every day. Mr Marcolini, I congratulate you for coming in and telling them to get out and realize what's going on.

**Mr Marcolini:** Excuse me. I'd like to make a statement on that. I'm not in here on politics. My concern here is jobs. Another thing I'd like to mention is that I was also one of Mr Tonks's campaign managers when he was running for mayor in York. I'm going to have to have a talk with him.

**The Chair:** Now that we've got politics out of this—

**Mrs Marland:** I guess the reality is that whether or not we're here discussing politics, we are truly discussing jobs. In my job, that's one of the roles I try to play, which is to protect jobs. I appreciate the fact that Mr Marcolini is here speaking on behalf of the United Transportation Union. I think it's very significant that you're here and I think it's very significant what you said. It certainly will be something that I will be able to quote a lot in the future when we're fighting other job losses in this province because of this Bob Rae socialist government.

Having said that, I would like to say that I found that I'm certainly not surprised, Mrs Braid, that you're vice-president of legal services. Your presentation this afternoon was very convincing. Is it correct to say that in 1979, in the derailment in Mississauga, in fact my municipality of Mississauga billed you for the fire protection services that were rendered?

**Mrs Braid:** That's correct.

**Mrs Marland:** You see, there's a perfect example where you do pay the assessment and even in that emergency situation you were not able to access any of the municipal services for which you are assessed. I always thought that was a very blatant example of how unjust the assessment system is.

When you talked about the assessment aspect—and obviously your company has been to the Assessment Review Board a number of times, I'm sure, and argued for your 30-metre rights of way—are you always given the same answer? I mean, even when you give these convincing arguments like

you gave this afternoon, are you always given the same negative response?

**Mrs Braid:** There was a special class that was instituted in 1979 for railway and "other" lands, which was at that time another interim measure which continued until 1990. In 1990, the special class designation was removed for railway properties only and we were taxed comparable to the adjacent properties. We have appealed through the courts some of those assessments and they are pending.

**Mrs Marland:** They're pending?

**Mr Ron Mason:** There's been no resolve at this time. The issue—I guess we're in 85 municipalities, and of those 85, we've all contested the appeals. They're all pending and waiting for the judicial process to continue. We are challenging it, but it hasn't been resolved.

**Mrs Braid:** The position we've been taking is consistent. I do not see relief tomorrow.

**Mrs Marland:** Mr Scott, did you say that you had asked for a meeting with the Premier?

**Mr Scott:** Yes, I said that both the president of Canadian National Railways and I had written the Premier and asked for a meeting.

**Mrs Marland:** How long ago would you have made that request?

**Mr Scott:** The letter was dated November 25 and it was delivered by hand that day.

**Mrs Marland:** And have you had any response?

**Mr Scott:** Not yet.

**The Chair:** Mr Grandmaitre.

1710

**Mr Bernard Grandmaitre (Ottawa East):** I'll be very short. You do realize that MVA puts a 25% cap on most of the industry, and I find it very, very strange that a tax customer like you, who will be faced with a \$40-million tax bill on January 1—that the government of Ontario doesn't have time to meet with you to consider the inequities of Bill 94. My question is a very simple one: Why do you think you're being treated differently from other industries?

**Mr Scott:** I can't answer that question as to why we would be treated differently from other industries or why we're being treated the way we are. I can't answer that. As to the question of why we haven't had a meeting yet, perhaps that will change with time.

**Mr Grandmaitre:** Well, it might change, but don't forget we had a vote this afternoon and all of these people voted for Bill 94. You know, you weren't too lucky with Metro and personally I don't think you'll be very lucky with the government, so 15,000 jobs are at stake. On Monday morning, will you try to meet with the Minister of Labour not only to explain the inequities of this bill but to talk to him about the possibility of losing 15,000 jobs in this province?

**Mr Scott:** You have to recall, sir, that we are federally regulated and when we meet with the Minister of Labour, in our business it's the federal Minister of Labour.

**Mr Grandmaitre:** Yes, but at the same time, your 15,000 people are paying provincial tax.

**Mr Scott:** Yes.



**Mr Grandmaître:** And they'll be losing their jobs, as pointed out by your friend.

**Mr Scott:** Yes, that's right. That is a concern, I would presume, to this government, and I'm prepared to talk to anybody reasonably about these problems.

**Mr Grandmaître:** That makes sense.

**The Chair:** Thank you very much for coming this afternoon, for your brief, as well as the comments you have made. I'm sorry, one last comment.

**Mr Marcolini:** One comment: You know, we talk about highways, but we also have to realize that we're competing with railroads that go north and south today, okay? The railroad can handle this traffic that we handle out west and the stuff that we run from Detroit to Montreal. They come down over the Sault line, Milwaukee, into the D and H. Also, CNR has the Burlington Northern. So it's just not the highways any more; it's railroads in the United States that are taxed about 40% less than the railroads in Canada. So if we don't get a level playing field, maybe you guys will accomplish what you set out to do—no railroads.

**The Chair:** Thank you again. We appreciate your coming this afternoon.

**Mrs Braid:** We appreciate the opportunity.

**Mr Mills:** If I might just say one word before you leave, attempts are being made at this very moment to set up a meeting between the Ministry of Revenue and the Ministry of Transportation for CNCP.

#### CONFEDERATION OF RESIDENT AND RATEPAYER ASSOCIATIONS

**The Chair:** I call the Confederation of Resident and Ratepayer Associations, Mr Howard Joy, chair, and any others from that organization. Order, please. Could those who are leaving the room please do so and those who are going to be making a presentation please come forward. We will distribute copies of the confederation's presentation.

Order, please. I realize that we're in tight quarters here, but if we could have the representatives from the confederation to please come forward. I believe it's Mr Joy who is the chair. Mr Joy, would you be good enough to introduce the other members of your delegation. You have half an hour, and we can begin as soon as you're settled. We are running a little bit behind and if we could proceed, I would appreciate it.

**Mr Howard Joy:** I am Howard Joy of the Confederation of Resident and Ratepayer Associations of the city of Toronto. On my left is Linda Lynch, a member of the Lakeside Area Neighbourhoods Association, one of the CORRA members, and on my right is Katherine Packer, who is known to some of you in connection with the fair taxation task force. They're here to help me with questions that you may have.

You have my brief. I'd just like first of all to tell you about CORRA. CORRA is an umbrella organization of the city of Toronto resident and ratepayer groups. Through our organization, memberships represent more than 10,000 Toronto households, and we thank you very kindly for having us here today. Listed below on the bottom of my letter to the members are the names of our association members.

CORRA has concerns about the market value assessment system's application in Toronto. In general, CORRA has serious

reservations about the effects that market value assessment will have on the economy, environment and social wellbeing of the city of Toronto. We believe market value assessment is not a satisfactory or fair method of determining taxes.

In particular, our concerns are amplified by the selection of 1988 distorted assessment values as the benchmark for all calculations. The year 1988, as you all know, was the most volatile real estate year in memory, and speculation ran wild, particularly in Canada's largest and most susceptible city, Toronto. MVA has its deficiencies at any time, and these become most visible in an unstable market.

Impact studies should have been an imperative first step. It is unbelievable that the most controversial municipal plan in the history of this province, a plan that is criticized for its anticipated impacts, does not have impact studies for its very first step before any legislation is passed. But no, the first small steps will put it on its irreversible way to full market value. In fact, full market value comes in, in some categories, in giant steps, followed by the first and every subsequent real estate sale. What kind of thinking is this?

People are frantic about the impacts this plan is expected to have on the city of Toronto: economic impacts, environmental impacts and social impacts. We fear from what we have heard, seen and read that there has never been an issue on which people's feelings have been so passionately aroused. There is angry talk of the city of Toronto seceding from Metro and of people withholding taxes.

Impact studies could very well defuse a mounting situation. We feel sure that properly conducted impact studies would not be ignored by either the politicians or the populace. To us, it makes so much sense to study the impacts before forging ahead with a system so controversial.

History shows that MVA is bad for large, fast-growing cities. Jane Jacobs, one of North America's foremost authorities on urban planning, has written extensively on the decline of US cities. High taxes in the inner city, low taxes in the suburbs will alter the economic mix of Metro's population. Only two large population groups, the rich and the poor, will remain in the inner city. Middle-class tenants and home owners will move out to the suburbs. She says the decision by some municipal politicians to push for higher taxes on city properties shows they know very little about creating healthy urban areas. She also says that their civil servants who advise them to do this are incompetent.

Roberta Brandes Gratz, lecturer and writer on urban affairs, warns of the bad effects that an overabundance of cars is having on the city. Cars, and the pollution they create, do not make a healthy city. Pollution aside, cars and people don't mix. Car use in Metro has increased 250% from 1975 to 1991 and compounds 2.5% each year.

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Before it is too late, we must encourage other modes of transportation with a view to cutting down on the need for the ever-polluting automobile within the city. If we don't improve our public transit system, bicycle lanes, wider sidewalks for pedestrians, then cars will take over completely and there will be no room for people, except in cars. But we can't improve public transport and related services until we intensify suburban land use. The suburbs must intensify, or they

will never be able to pay for the services they use now and will want later.

Gary Gallon of Environmental Economics International, and a former senior policy adviser to Ontario's Minister of the Environment from 1985 to 1990, sees the MVA scheme driving people and businesses away from the inner city as a prelude to the urban-core rot. This, he says, is just what happened to Detroit, Los Angeles and Chicago.

You have all heard the awful things that have happened to so many cities south of the border when their elected officials overtaxed the prosperous activities at their cores. In time they weren't prosperous any more. People and businesses moved away. The tax base dried up. The infrastructure broke down. The healthy core became dirty and unsafe and environmentally hazardous. It was no place to be, and none except the poor remained.

I imagine most of you have seen the result, as I have, in places like those mentioned above, and also Buffalo, New York, Albany, Chicago and many more afflicted cities. Most of them are now faced with a cost of hundreds of millions of dollars to clean up the decayed interior slums they have allowed in their rotting cores.

If Toronto can hold on to its neighbourhoods, including especially its downtown neighbourhoods, this should not happen here. However, it will happen here if we aren't careful, if we don't learn from the mistakes of others.

History has a nasty habit of repeating itself. Not without reason has it been said that "Those who ignore history are doomed to repeat it," and isn't that exactly what we are doing, ignoring history? Shouldn't we have learned that MVA is unpredictable, that it is as unstable and volatile as the market, and therefore dangerous in a crazy year like 1988? Shouldn't we be looking at other systems such as unit value which is said to be more predictable and not prone to market fluctuations?

It is a myth that the suburbs have been overpaying taxes. Why on earth are we under the false impressions that suburban residents are currently taxed too much when in fact Toronto taxpayers are required to subsidize them? If the suburbs feel they are paying too much in taxes, let them intensify as the city of Toronto has done and plans to do more. Let them live on economically serviceable lots as city of Toronto residents do. Why should we live on as little as 12- to 14-foot lots, and now, under MVA, be taxed to high heaven so that we can increase our subsidies to promote still more uneconomical land use in the suburbs? Let's put a stop to the suburbs gobbling up our arable land, and let's insist on their living responsibly. In spite of our economical lifestyle, we're being taxed to death, and our once healthy businesses are being taxed out of existence.

Under MVA tax levies will shift from the suburbs to the city. Historically, when urban taxes rise dramatically, the financially squeezed middle class move out to the suburbs. This will happen here, and that will leave fewer people in Toronto to subsidize yet more people in the suburbs where inefficient land use will exacerbate the problem of uneconomic urban sprawl.

Consider that as things stand now, the inner-city taxpayers, who represent about 30% of Metro's population, currently pay 42% of the education costs and 38% of the cost of other

services; this in spite of the fact that the per-person cost of services is less in the inner-city than in the rest of Metro. With the proposed MVA scheme, the tax cost to the inner-city taxpayer is going to rise even higher. With the exodus of the middle class and small business taxpayers, who in the inner-city is going to pay for this?

The current MVA scheme has potential for ruining small businesses. The scheme will see the transfer of \$78 million a year from residential to non-residential. Much of this will hit small business. But that's not all; under full MVA, there's a transfer of \$100 million of municipal tax from large commercial businesses on to smaller businesses. What will this do to small businesses? We don't know for sure without an impact study. It seems highly likely that in conjunction with the present recession, it will put them out of business. Surely we can't stand by and wait for this to happen. Many are falling by the wayside as things are right now.

Wait. There's more. Small retailers in malls are really being shafted. Malls get a big tax reduction, but the large, anchor tenants get a reduction about twice what the malls get. So who covers the shortfall? The small tenants of course. So you have the small tenants paying about half as much as the big tenants are getting knocked off their taxes. It's really bizarre. If it wasn't so tragic, it would be hilarious. It's so ridiculous.

Look at the 11% vacancy rate in downtown office buildings. Rents being collected are just a fraction of what they were in 1988, yet landlords are paying out, on property and business taxes, up to three times what they take in. So what's going out is up to three times what's coming in, and then there is still the mortgage that must be paid. How long can this go on? We're starting to lose the core already, we fear.

Highest and best use is not necessarily best. The sort of mindset that determines that all property should be developed to the fullest extent imaginable shows no imagination whatsoever. If one piece of property gets fully developed, it should not drive up the taxes of its neighbour. This is the surest way to wreck neighbourhoods and significant buildings in the residential areas, and the ambience of a varied streetscape downtown.

Private gardens should not be classed as vacant land. We understand the importance of developing vacant land, but to penalize an owner of a double lot is mean-spirited. An owner who enjoys gardening should not be charged full MVA on a large garden. Double lots are disappearing fast enough without this sort of harassment. Neighbourhoods benefit visually and environmentally from well-kept gardens in their midst. We don't need this kind of pressure. The garden will disappear soon enough.

Seniors and others on fixed income may lose their nest egg. MVA is a location tax which does not consider ability to pay, the size of the house, the size of the lot, the services used and the efficiency of the use of land. In a changing market, it is unpredictable. The new evaluations will seriously affect the options of many seniors. They and others on fixed incomes will have to sell their houses sooner than they had intended.

Under 1988 market value assessment, their houses' values exceed their wildest dreams; a cruel joke, because at no time, in 1988 or any other year, could they have sold anywhere close to the 1988 assessed values. Yet they are penalized by



the unproven, highly speculative and certainly questionable values which they are told could have been realized if the houses had been sold in 1988.

This assessment was a very shoddy exercise indeed. Nevertheless, whatever they could have got if they had sold in 1988 would be far lower today, and come January 1993, or whenever MVA is passed, seniors will find their houses have been effectively discounted even more because of the huge jump in taxes to 100% MVA that will have to be paid by the purchaser.

We cannot understand how the provincial government can, in conscience, leave this clause of full market value at time of sale unchanged. After all the election promises about being opposed to MVA, it is no wonder that politicians are not believed. We say, "For shame." It reminds us of George Bush saying, "Read my lips."

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We urge the government to rectify this before it is too late, as not only will it set up two categories side by side; it will most certainly discourage the turnover of homes. This may be the most important reason of all, as in our present economy we can't afford to discourage business.

If the seniors plan to stay put and not sell their houses, they will have to pay increased taxes without the help of the property tax credit, which this government has eliminated. Seniors have a lot to be thankful for.

What is the real reason not to wait for the Fair Tax Commission? The Fair Tax Commission was set up to examine taxation. It had a lot to do with just what we are talking about here. We all know unofficially what the Fair Tax Commission's property tax working group recommendations are. Newspapers have seen and printed them. Everyone in the government could have seen them and must know how pertinent the findings are to Bill 94. What's all the rush? It doesn't say much for integrity to set up a commission to study the matter for more than a year and then, just when it's needed, to ignore it. What a terrible waste of taxpayers' money.

In conclusion, that's our report. We might have said more, but we think we've said enough. At the very least, we ask you to reject the provision that would permit full market value to be applied to houses on change of ownership. However, we urge you to hold up Bill 94 until another system can be examined. For all the pitfalls noted above, we feel it will be unconscionable to do otherwise.

I was going to ask about the meaning of this ad that was in the paper yesterday, which to anybody who doesn't know what's going on would tell them that it's all been completely decided by Metro. There it is. It tells you exactly how it's going to work and when the full values are coming in. This sort of arrogance on the part of Metro is what hurts most of us the most. I think it's intolerable the way Metro didn't hear and didn't listen to all that was said in the hearings. I was there myself for one complete night, until 3 o'clock in the morning, and they weren't listening. There were some very good things said.

Linda Lynch has one little thing she wants to mention in connection with market value and then we could have some questions.

**Ms Linda Lynch:** I'll be very brief. I suppose I could probably direct my remarks to Anne Swarbrick.

One of the things that's wrong is that we sit in the city of Toronto. For example, I live on a 15-foot lot and I checked on the costs of government servicing my lot, the cost for the sanitary sewer, the cost for the storm sewer, the cost for the water service and also fire protection out of that line. It works out to \$430 a foot for a residential street. So for the government to service my 15-foot lot it costs \$6,450.

That property, a little tiny house with no driveway and a four-foot frontage to the sidewalk, was valued at \$180,000. The same house, the same value, a \$180,000 home on a 150-foot lot, is \$64,000. So tell me where the equity is. Why should we intensify? Don't we get a break if we save people money and we intensify, and we've got 20 15-foot lots on a street versus the luxury of 150-foot lots and five houses on a street? What are we getting for our tax dollars? Why should I be penalized because I live in an intensified neighbourhood? I can't help it if there's not more land and my house is worth \$180,000 on a 15-foot lot. Could you live on a 15-foot lot?

The other point is that for a 50-foot lot—that's what everyone's building now—those services would cost \$21,500. So if we're supposed to buy into the province's push for intensification and the city's push for intensification, and we're doing that because we're supposed to get more bang for our buck and government gets more results from its investment, then how can you support market value assessment with 1988 property values? A 15-foot lot, \$6,400; Joyce Trimmer, 150-foot lot, \$64,500. So if you want more money in burbs, intensify your streets. Don't ask me to pay any more for my little 15-foot lot.

**The Acting Chair (Mr Bernard Grandmaitre):** Thank you for your presentation. We have some 12 minutes and I'll recognize all three parties.

**Ms Poole:** Thank you very much for your presentation today. It was really an excellent synthesis of all the things that are wrong with market value assessment.

There are two issues I'd like to address. The first is your statement, "We cannot understand how, in conscience, the provincial government can leave this clause of full market value at time of sale unchanged." I would like to address that particular point, because that's exactly what the government has done. They have left the city of Toronto unprotected and said that Metro can go ahead and pass a bylaw to allow homes to go to full market value at point of sale. They said, "Look, we're protecting the city." The question I would have for the government is, how is this protecting the city of Toronto when at Metro council they've already had three votes on this and three times Metro council has rammed it down the throat of the city of Toronto and said, "Yes, at point of sale, full MVA"?

I just want to tell you that I have put the government on notice that I am introducing an amendment to this legislation whereby at the point of sale, homes would still have the protective cap. At that stage, we'll really see whether this government is committed to protecting the city of Toronto. I have a feeling that you'll find their actions are as hollow as their words.

The question I would like to ask you about is the impact on our neighbourhoods. You have made an excellent case that what market value does is reward urban sprawl—I think, Linda, your comments highlight that point—and at the same time, it promotes decline of our city centre. You've touched on the impact on small business, and you've touched on the impact on seniors and other long-time home owners. Could you elaborate for us on other ways in which this is going to lead to urban rot, maybe a different way to ask this question is, is it leading to the destruction of our neighbourhoods?

**Ms Lynch:** Yes, I think it will. I'm speaking about the east end of the city of Toronto. Perhaps I could ask the members of the committee to please listen to this point—this is very, very important—as little people, we only have one kick at the can in front of you.

Our quality of life is that we suffer tremendously. We have the sewage from all of Metro in our backyard. Our children breathe the fumes from the Toronto sewage treatment plant. We have the highest incidence of asthma of all of Metropolitan Toronto.

When we think maybe we're getting a tax break and we only have little houses and our kids our sick and we're breathing the fumes from the burbs' effluent, I guess if we get a tax break, maybe we're not paying as much because we really don't think our properties are worth that, even though our real estate agent does.

I have to say to you, why should we stay in the city? Why should we stay and be subjected to the pollution of the several million people from the burbs who work downtown and create ozone at ground level? Why should we stay in the city and breathe the fumes from the large sewage treatment plant that treats all of Metro, and a variety of other negative impacts in our neighbourhood that come from being the host community to Metro in terms of jobs? Why should we stay there if you're going to tax us to death and have absolutely no regard for the real problems the neighbourhoods in the city of Toronto have? Our rate of crime in the east end of the city of Toronto is the highest in Metro.

If you turn businesses away and turn urban decay our way even more than it already is, no, we're not going to stay. Our neighbourhoods are going to fall apart. It's already tough for my neighbours to bring up kids there, and if you're now going to—I should point out that in south Riverdale we're the poorest per capita urban area in all of Canada. Just because a real estate boom increased our property values, does that give you the right to tax us out of our homes? I don't think so.

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**Ms Poole:** Point well taken.

**The Acting Chair:** Thank you. I'm sorry, Ms Poole, we must move along. We're behind, so Mrs Marland please.

**Mrs Marland:** I'm just going to have one fast question and I know Mr Stockwell has one for you.

When you say, "Why should you stay?" Ms Lynch, is it not true that because of the impending impact MVA would have, your option of moving isn't a realistic one, that because of the sale of your property you just cannot recover your investment? Those options of moving away from all these things that bother are not real options any more, because who

wants to buy your house and put themselves in the position you're in for the very reasons that you want to leave?

**Ms Lynch:** I can appreciate that remark, Mrs Marland. I think the government should know that myself and many others are liquidating our property. I can tell you that the house that's valued at \$180,000-odd by the government's assessor sold for \$140,000. People are bailing out. They're losing their investment. We don't want to stay. We can't stay if you're going to do this to us. It's not even going to be a question of not being able to sell; it's going to be a question of foreclosure.

**Mr Stockwell:** Just a quick—

**The Acting Chair:** I'm sorry, Mr Stockwell. I have to move along, and from the government side—

**Mrs Marland:** I gave my time to Mr Stockwell. That's why I was brief.

**The Acting Chair:** I said one question from every party.

**Mr George Mammoliti (Yorkview):** I'll do the appropriate thing and give my time to Mr Stockwell. I like the man.

**Mr Stockwell:** Thank you very much. I have a quick question. I appreciate that, the member for Yorkview.

**Ms Poole:** That's certainly relevant. I like him too but I'm not giving him my time.

**Mr Mammoliti:** Well, I wouldn't give you my time.

**The Acting Chair:** Okay. Can we get on, or I'll take your time.

**Mr Stockwell:** I have constituents in the city of Etobicoke who live, let's say, in New Toronto. New Toronto lives next to a jail. They live right next to a waste transfer station, they have no subways, they've got a streetcar down on Lakeshore if they want to walk all that distance and parks are non-existent. They're probably in one of the poorer areas in Etobicoke, I would suggest, and their taxes right now are in the neighbourhood of \$3,000, \$4,000, \$5,000 and \$6,000 per year, their frontages are 20 feet at best and they're living in two-bedroom bungalows.

Tell me what I do to go back to those people and explain to them why they're going to pay two, three and four times more in taxes than you and a lot of other people simply because we can't get a reassessment plan through? They're also single mothers, seniors and people on fixed income. Explain to me how I tell them, because they live in the palatial area of New Toronto, next to a jail, a waste transfer station with no parks, libraries or subways, that they have to pay 6,000 bucks a year?

**Mr Joy:** I could answer that. I think there are inequities. We're not saying there aren't and that all the inequities are in the city of Toronto. What's going to happen is that those people are going to pay less, which perhaps is right that they should, but people like Linda are going to be expected to pay for it.

**Mr Stockwell:** And under your plan they continue to pay more. Under your plan they're selling their homes or losing them, foreclosed on.

**The Acting Chair:** Mr Stockwell, I'm sorry.

**Mr Stockwell:** What do I tell them?

**The Acting Chair:** Mr Joy, please.



**Mr Joy:** That's my answer: These inequities will be looked at but you always have an example, and I think a small example. I don't think it's a major—

**Mr Stockwell:** It's everywhere. It's rampant.

**Mr Joy:** It is everywhere.

**Mr Stockwell:** It's rampant.

**Mr Joy:** Mr Stockwell, more in Toronto than anywhere else.

**Mr Stockwell:** It's rampant, they're overpaying, some people by \$17,000 on a business for a 1,500-square-foot store.

**The Acting Chair:** Mr Stockwell, I'm sorry, but we must move along. Did you want to add something, Linda, in 30 seconds?

**Ms Lynch:** Yes. I just have a very quick comment. I would ask the government to peel away partisan politics and to take a look at the fact that the residents in the city of Toronto are not equitably represented at Metro. You are the only people who now legislatively can step in and help us, and I think what you have to do is take a look at the inequities of accountable elected representation at Metro council. The people who are sentencing the residents of the city of Toronto are not accountable to us. They come from other municipalities, so we can't have a dialogue with them, we can't talk with them and we can't hold them accountable.

I believe the province has a responsibility to step in when those kinds of inequities happen. We are shareholders in a corporation that you run. You run a corporation that has perishable goods—us the taxpayers—and I ask you and urge you to think. What have you got to lose by doing a full economic impact study and saying: "Metro, hold on another couple of months here, folks. We want to get all the answers. We want to know what the true implication is for the folks in all the cities that make up this region"? What have you got to lose by doing that?

**The Acting Chair:** Thank you, Mr Joy. Oh, I'm sorry. The parliamentary assistant will provide some clarification.

**Mr Mills:** I'd just like to clarify paragraph 4 of page 5 of your presentation. The government has not eliminated property tax credits to seniors. There's a process whereby seniors with less income get more and those with a higher income don't get any. I just want to make that correction.

**The Acting Chair:** Thank you, Mr Joy. As you know, members, we're running about 45 minutes late, so I would ask for your cooperation in order for us to meet our commitment.

#### SAVE OUR CITY INC.

**The Acting Chair:** The next group is Save Our City. Would you please identify yourself for the benefit of Hansard.

**Mr David Payne:** Good evening. I am David Payne, a director of Save Our City. We have Art Eggleton, a former mayor of the city of Toronto here. He is also a director of Save Our City. We have Richard Wookey, a Toronto businessman, who is a director of Save Our City, and Robert Brown, a member of Save Our City who has been very accommodating in the preparation of the written submission we're putting before you.

**The Acting Chair:** Before you start, I'd like to remind you that you have 30 minutes and if you would like people to answer your questions, please time yourself.

**Mr Payne:** Because we only have 30 minutes, Mr Wookey will not be referring specifically to the written brief. We hope you'll read that later. Mr Wookey will be taking up most of the oral time along with Mr Eggleton and, hopefully, half of our time we'll leave for questions.

**Mr Richard Wookey:** On behalf of Save Our City, I wish to thank you for this opportunity to address your committee.

We wish to clearly state our strong opposition to this legislation and the power it gives to Metropolitan Toronto. Our opposition covers three aspects: the real property reform, impact studies and assessment credibility, which is lacking.

I just want to tell you one small thing about Save Our City. We are an organization that was formed late in September as a coordinating body for strategic planning, research and information exchange among the many groups and organizations in the city. We have about 25 groups that we work with.

I'm going to depart from our brief, which you will all have. You are full of facts and figures, I'm sure, from many presentations that have been made, so I'd like to speak personally and from my long experience in the city. To do that, I have to go back quite a long way. Since most of the gentlemen on this committee and certainly all the ladies are extremely young, I'd like to go back 30 years and—

**Mr Jim Wiseman (Durham West):** Was that a comparative comment or a factual comment?

**Mr Wookey:** No, that's a factual comment. I'd like to go back 30 years approximately. Toronto, 30 years ago, was a conglomeration of neighbourhoods and a downtown commercial area and then this certain flight started towards the suburbs. This flight was in effect emptying some of the older areas of the city and at the same time developers were moving in and building apartment buildings and different kinds of businesses.

I got very involved in opposing, actually, a lot of the high-rise buildings that went into Toronto because I felt that a lot of the neighbourhoods and the life of Toronto were going to be affected adversely. I don't say there isn't a place for high-rise buildings, but it was just the way they were intruding into neighbourhoods.

At the time I had bought a house on Hazelton Avenue, which was a very old and decrepit area at the time, and one of the persons who I met there was a woman called Ellen Adams. She was Stephen Lewis's assistant and a highly intelligent and very motivated person. I got involved in the renovation of old houses and old buildings and I really enjoyed it. It was a very challenging thing because it wasn't very economic; in other words, you had to take a very long look.

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Just about three or four years after I had started my own activities, David Crombie was elected as mayor of Toronto and his great platform was that we should try and save, again, the neighbourhoods of our city and prevent people leaving the city. We all worked together. It was a wonderful experience actually, and I have to compliment the NDP in this

sense, that most of the people I got the support from in those days were all very ardent NDPers. I didn't necessarily agree with most of their platforms but I did appreciate the tremendous support they gave and the dedication that they had to the betterment of the city.

Here we are in 1992 and we have something that's going backwards. A tremendous amount was accomplished. There was a tremendous betterment of the city. Toronto became actually an example to cities and countries all over the world. I myself have had over the last 25 years maybe 30 or 40 delegations that have come from Japan, from Sweden, from all kinds of places, that were interested in my own renovations.

Primarily they were interested because they wanted to know if it was possible to save old buildings economically. They weren't particularly interested in the buildings; they were just interested to see whether it was possible, because in Europe, for instance, a lot of the countries and a lot of the cities actually give you a tax break. For instance, Holland is a very good example. They'll give you 25- or 30-year tax moratoriums to be able to renovate and save the old structures in the cities to preserve the cities.

Today we have a situation which I think is extremely dangerous because this market value assessment is going to affect the future. It's going to affect the way people will view old buildings. Will they undertake to renovate old buildings? It's going to be a tremendous question as to whether they will because if you renovate an old building and your value goes up and you're immediately taxed more for that effort, it's going to be a disincentive.

I know that you've heard all the statistics on taxation, and you're going to get lots more. All I can tell you is that the city's a living thing and what is being proposed today is a disease and if you allow this disease to go in, it's going to be, I think, the long-term decline of the city. It's not going to happen overnight, but it's going to happen. I think you should not allow MVA to come in. There are other ways of redressing the inequities in taxation. It could be a combination. Maybe it should be part value, part unit value, part the size of your lot, part the size of the building. But certainly it has to be studied, and nobody has studied this.

The other thing that I think is very important is that we have an unbalanced situation politically in Metro. You have the suburbs, which have something to gain—not everybody in the suburbs because a lot of people are going to suffer in the suburbs, but on the whole have something to gain—and they've got the vote. But Toronto supplies the majority of the budget. So what we are really having is taxation without representation, because we can never override that vote in Metro.

The other thing that I think is important for you to understand, to realize—not to understand; I'm sure you understand, but to realize—is that if you do put MVA through, and after all, it is the government's legislation which is in front of the Legislature at the moment and that's what we're talking about, then there have to be adequate safeguards put in to really control Metro. The safeguards that have been talked about have not shown up in the legislation.

Minister Cooke said this was not full MVA. How can it not be full MVA if somebody sells his house and goes on to full taxes? That is full MVA. I won't discuss the railway lands

and things because we are here to try and represent an area of what we're discussing, but it does undermine the credibility that this is not full MVA. That's another point.

The third thing is that if this thing is put through, then it shouldn't be allowed to Metro to decide whether it's going to pass a bylaw in the future or not. I think it's up to the government to say. If there's going to be a cap and that cap's for five years, it should stick for five years and it should be government policy in the legislation. If the government is going to review the whole situation five years from now, it should be in the legislation that MVA cannot be implemented without parliamentary or Legislature approval.

They're really fundamental things here and I'm at a loss to understand why this thing has been shoved through so quickly. For the last two years, the assessment department has been making assessments on property. Why hasn't the government or why hasn't Metro, why haven't there been studies made so this can be brought forward and people can vote on something with some intelligent input? None of that has been done.

The last thing I would like to say is that the assessment has been so erroneous, I mean, it is so bad, that we need that to be reviewed. It isn't a question of a few thousand people being badly assessed; we're talking about hundreds of thousands maybe, and these assessments are absolutely, completely wrong. So a lot of this transfer of taxation has been based on assessments which are incorrect. If people are going to have to appeal these assessments, it's going to be a tremendously long process to get them heard.

I think these are the things you really have to review and think about and recommend to the government, because I presume that's your function here. Basically, that's all I have to say and I think Mr Art Eggleton might have something to add.

1800

**Mr Arthur Eggleton:** Thank you, Mr Chairman, members of committee. I'd like to tell you about a lot of reactions I've had to Toronto over the last few months. Since I stepped down as mayor of Toronto, I've been doing a fair bit of travelling and I've had an opportunity to speak in a number of cities throughout the world about Toronto, usually getting invited because they've heard so much about the city and how well it works.

They're particularly interested in the life and vitality in the downtown area because they know, for example, that in many of the cities in the United States, many of the cities in the world, there isn't that kind of life and vitality and safety and liveability that we happen to enjoy here. It's something that's not just for the benefit of the residents of downtown Toronto; it's a benefit for all the people in this whole region. Indeed, in terms of economic and social impact, Toronto and Metro Toronto are vitally important to this province and to this country, and I don't need to tell you that.

But here we are tinkering around with that success, not knowing what the impact of it is going to be because there haven't been studies done as to what the impact is. The impact isn't just on the basis of the scheme before you, with its caps that are attempting to ease and cushion the blow. Let's bear in mind that with these caps, particularly the ones for the



commercial sector, where we're looking at 25% over three years, added to that is whatever the regular tax increases are. People out there are saying, "Oh, it's bad enough," but then on top of that they're going to have the regular tax increases, which sometimes have been 10% or more. We could be facing, in the commercial sector, for example, instead of 25% in three years, 40% or 50%, and there's more on top of that.

I note that one of the enterprises in the category of those that are not capped is the Parking Authority of Toronto. The Parking Authority of Toronto is a very vital instrument for these various strip commercial areas in terms of their customers being able to park there. These parking lots have always been money losers. They make money on the parking lots downtown, but now the parking authority is suddenly faced with its tax bill going from \$6 million to \$19 million. The result of that is that they're either going to have to close these lots that serve these small commercial retailers or they're going to have to go and ask them for more money to be able to keep that kind of service going.

There's more to it than meets the eye, and what is the impact of all of this? What is the economic impact for small business trying to crawl out of a recession? What is the social impact on this city? How is it going to affect the fabric of the downtown area? We don't want to become downtown Detroit or have any of the kind of social problems we've seen in downtown Los Angeles. We want to maintain the uniqueness of downtown Toronto and this entire metropolitan area. I suggest to you that we're tinkering with it without having these proper studies.

We've asked some business people, and in our submission there are some statistics which show the kinds of impacts. For example, the commercial strip along Bloor Street West, stretching from Madison westerly to Bathurst, contains over 125 neighbourhood service oriented retail businesses. The aggregate tax increase under full MVA for these struggling businesses exceeds \$2 million. The increase, averaging in excess of \$1,000 per month per business, cannot be justified or sustained by the business volume. Even with the capping, many of these people we've talked to indicate that it could effect as many as 200 jobs being eliminated through the shifting of the tax burden in the commercial class.

Then there are the malls, many of which are in the other area municipalities within Metro. Again, under Exhibit 2 in our brief, you will see a shifting of the tax burden. The anchor tenants, the big stores, benefit. The small stores have to pay a lot more.

We need these impact studies. We need to have real reform. I think we'd all agree that we should have reform of the property tax system. I would suggest to you that we should have reform of local government financing. We need to go further than just the property tax system. More should be based on ability to pay, not just on property taxes, and I think education is key among them.

But to do this, to go along the lines that are being suggested here by Metro, is just jumping from the frying pan into the fire. I think you should ask for these impact studies, both social and economic. Better still, let's do reform, real reform and let's do it now.

**Mr Robert Brown:** We're approaching, I guess, just about halfway through the half-hour you've suggested would

be appropriate for this presentation. There's just one small area I think we need to reinforce and that is the fact that we are here before the province, before a provincial committee and this is an issue of provincial scope.

The municipal taxation policy for all urban communities in North America, particularly here in Toronto, is a fundamental strategic tool in the shaping of the structure and form of the community. The proposal that's been brought forward by Metro to you I think is in serious error in that it operates in opposition to a number of the other initiatives that are currently before not only the city of Toronto, but Metro itself and the GTA.

From what we can sense in some of the ministries in the province, the urban sprawl philosophy of the late 1960s and early 1970s, which sort of led us to believe that we should support the development of the nodes in Scarborough, North York and Etobicoke etc and that have led to the development of Richmond Hill, Markham and a number of the communities to the north, the east and west of Toronto may not be totally appropriate for the next generation of urban growth.

In actual fact, it is my belief that urban growth should be of a more intense form, and we've seen initiatives in the city of Toronto, such as the main streets, for intensification of the strips along Bloor Street, Eglinton, St Clair, King, Queen etc. We now have coming, through the Metro administrative process and political process, its new plan, which we understand is looking at further intensification of uses not only within the city but within Metro itself, and questioning whether it's appropriate to continue the sprawl in southern Ontario that absorbs acre after acre of very valuable farm land. That continues to cause total provincial expenditures on infrastructure to be well beyond what the local communities can afford to sustain once they have moved into their particular residential communities.

That's why I think it's very important that this committee refer back to the minister and to the ministry serious concerns that should be there relative to this particular policy and how it operates in opposition to a number of other initiatives that are perhaps more appropriate for this decade and maybe for this generation of growth to come.

**Mr Payne:** I think that's all of our submissions if we have good questions—

**The Acting Chair:** I'll recognize one question.

**Mr Wookey:** May I just add one item? What Robert Brown just said is just the tip of the iceberg. In the United States today, there's a vast migration of people leaving the suburbs that has already been in place for the last two, three, four or five years—a lot of them already left the inner cores of the cities—going to the suburbs and from the suburbs going to smaller towns and villages and so on. Every time this happens, it leaves a big void somewhere else and I think that is something the government should look at very carefully.

**Mr Payne:** Questions?

**The Acting Chair:** Yes. Mr Mammoliti, Mr Turnbull and Ms Poole.

**Mr Mammoliti:** I'm first, am I, Mr Chair? I'd like to ask Mr Eggleton a question, if possible. Thank you very much, all

of you, for coming, by the way. Mr Eggleton, congratulations on your appointment to the York Centre federal riding.

**Mr Eggleton:** Thank you.

**Mr Mammoliti:** We may be neighbours. I'm in Yorkview provincially.

**Ms Poole:** There's a happy thought.

**Mr Mammoliti:** Mr Eggleton, I'm going to have to agree with you in terms of the property tax structure and how we've got to perhaps look at that concept of the ability to pay in terms of the educational portion of property tax, but let's talk about York Centre for a second, let's talk about that suburb you're looking to represent federally as well and let's talk about MVA and how that particular suburb is certainly looking forward to the tax reduction that MVA would bring with it, Mr Eggleton. An estimated 80% to 85% of the businesses, as you spoke about, as well as the home owners and renters in that community, will benefit. They will experience a reduction. In Metro, 57% of the people will experience a reduction with the current proposal.

I have two question. First, don't you think the people in York Centre pay too-high taxes for their properties?

1810

**Mr Eggleton:** There's more than one way to bring about reform. If people are paying too much in taxes, whether it be in York Centre, downtown Toronto or anywhere in Metro, then reforms should be brought about so they don't have to pay higher taxes. There's no doubt about that.

I don't think this is a good reform. There's more than one way of doing this. Let's look, for example, at the unit assessment system. Let's see the kind of impact that would have. If you had smaller lots, smaller frontages, quite frequently you'd end up with people who would pay less.

I think reform is needed and that people, wherever they are, who are paying too much should be paying less, but I don't think the system that is being proposed is a fair and equitable system to start with. Secondly, you don't put up people's taxes and create the kinds of difficulties that it would for many parts of this metropolitan area.

**Mr Mammoliti:** The people in York Centre have been looking forward to a reduction for a number of years now. You're here in front of this committee asking us to pretty much put a halt to those reductions.

**Mr Eggleton:** I'm saying this is the wrong way to bring about that reform, but reform is something that should be done.

**Mr Mammoliti:** Ultimately, what that means is to put a halt to the reductions that people in York Centre are looking for and have been waiting for for a number of years.

**Mr Eggleton:** Why didn't you look at alternative systems years ago? The city of Toronto has certainly asked for a long period of time that alternative systems be looked at. There's been enough time for the members of this Legislature to propose that, so people who are deserving of reductions can get them.

**Mr Mammoliti:** This is a Metro proposal.

**Mr Eggleton:** Yes, and I'm saying it's a bad proposal. It's not reform at all.

**Mr Mammoliti:** People in York Centre suffer because of it.

**Mr Eggleton:** Let's give reform to all the people in the metropolitan area. Let's give a true reform not only of the property tax system but of the financing of municipal and local government. Let's do that, which is something that should have been done a long time ago, and then the people who should be paying less will indeed be paying less, but not at the expense of the fabric of this city, not at the risk of businesses going under. That's not a way to bring about reform at all.

**The Acting Chair:** Thank you, Mr Eggleton. Mr Turnbull.

**Mr Mammoliti:** Look at the businesses in York Centre that won't be going under, where there'll be a saving.

**Mr Eggleton:** Not all of them will. A lot of them will be going up everywhere.

**The Acting Chair:** Mr Mammoliti, please.

**Mr Eggleton:** A lot of them will be suffering as a result of it.

**Mr Mammoliti:** A lot of them suffer—

**Mr Eggleton:** You don't make other people suffer to bring about a reform.

**The Acting Chair:** Mr Mammoliti, your dinner will be cold.

**Ms Poole:** I say don't give him any dinner at all.

**Mr Turnbull:** Mr Eggleton, I completely agree with you that we should have proper reform of the tax system. There's no doubt about it that the present property tax system is badly skewed and there are some inequities, but this is not the way to fix it. It's my understanding that the city of Toronto, quite some years ago, asked for a review of the unit assessment system, and the government wasn't forthcoming in spending the money on that. Is that correct?

**Mr Eggleton:** That's right.

**Mr Turnbull:** How long ago was that?

**Mr Eggleton:** I couldn't tell you precisely. I think this has gone over three governments of three different political stripes, and we're still not able to get a proper study of the alternative system we recommended.

**Mr Turnbull:** Both North York and the city of Toronto recommended the unit assessment system, I believe.

**Mr Eggleton:** At one time North York was part of that, yes.

**Mr Turnbull:** You may be interested to know that the Fair Tax Commission's property tax panel has apparently studied the impact of market value and unit assessment using Pickering as a model. They compared it with the income tax rolls and they were able to establish that the unit assessment system was certainly not less fair than market value. Of course, the great advantage of it is that it would be considerably less to administer and it would be a stable system.

**Mr Eggleton:** I think a stable system is very important as part of this. It's too volatile a system that is being proposed, MVA, with values up and values down according to location.



**Mr Turnbull:** One of the problems you have when you have a committee meeting like this, as you well know, is the fact that people tend to have made up their minds before they come here. They're probably collectively protecting the turf of their people as they perceive it.

It's well known that I'm against market value assessment. In fact, it's the issue that brought me into politics. My concern is trying to persuade the people whose constituents have reductions—understandably, they're fighting for those reductions; I don't blame them—to understand the unfairness that is going to be created by this proposal. Is there anything you can offer for Mr Mammoliti, for example, to make him understand that while the present system is not fair, we're just replacing it with another set of inequities that we really could have addressed by going to unit assessment?

**Mr Eggleton:** I think it certainly deserves the kind of study that it has not been allowed to have up until now, and I think that kind of study should be done first; the impact studies I've talked about should be done first. Sure, there are some people who are going to benefit from the implementation of this, but I think too big a price is going to be paid by implementing this system, and that's why I think we need to look at the alternatives and not rush this through.

**Mr Turnbull:** You alluded to—

**The Acting Chair:** Mr Turnbull, I'm sorry. Ms Poole, please.

**Ms Poole:** I'd like to thank Save Our City today for the presentation, which I think in a very real way brought home some of the impacts of market value assessment.

First of all, in response to Mr Mammoliti's comments about the city of York and the impact there, perhaps he should also recognize that 35% of the businesses in the city of York will have the maximum 25% increase, plus other regular increases that come their way, so those businesses are looking at a 50% tax increase over the next three years. When you talk about inequities, the area that the former mayor of Toronto will hopefully soon be representing in the federal legislature will have its fair share of a devastating impact as well.

Two comments: First, Mr Wookey, you mentioned taxation without representation. It seemed to me that was a battle cry in the 1700s somewhat south of the border and it seemed to me they had a Boston Tea Party with that particular cry, "taxation without representation." You put the case very well, because one of the things the government does not seem to comprehend when it says it's protecting the city of Toronto by making Metro do a bylaw about the point-of-sale provisions is that Metro has voted three times that residents will go to full market value at the point of sale, and it will most likely vote a fourth time that way. So we are talking about people who have no representation on Metro, because the city of Toronto representatives are clearly out-voted. I really thank you for making that point.

**The Acting Chair:** And your question?

**Ms Poole:** My question relates to the lack of impact studies. Mr Mammoliti again was rambling on yesterday about a letter from the Liberal Minister of Revenue in January 1990 that went to Metro council about Metro's request to proceed. One thing Mr Mammoliti has not said was that in

that letter it very strongly recommended to Metro that it do an impact study.

The question I have for you on the Save Our City panel is, are you aware of any impact studies on the economic impact, the impact on small business, the impact on the shift on top of small business, environmental impacts, social impacts, job impacts? Are you aware of any studies whatsoever that Metro has conducted in these areas?

**Mr Eggleton:** No.

**Ms Poole:** Are you aware of any studies that the provincial government, whether it be Conservative, Liberal or NDP, has conducted in this particular area?

**Mr Eggleton:** No.

**Ms Poole:** I suspect, given your knowledge of this particular area, that the reason you aren't aware of any is that they don't exist. I think it is totally irresponsible for this government to go ahead with this plan without any impact studies and then to say: "Well, it's an interim plan. So what if the city of Toronto is destroyed within the next five years? It's only interim, and it's not our fault; it's Metro's." I have a lot of difficulty with that.

**The Acting Chair:** Can anybody answer Ms Poole's questions?

**Mr Payne:** I will, just as a bit of closing comment. We're not aware of any impact studies that have been done; we've answered that. But I would just like to make one point. Personally, my taxes go down significantly under full MVA and I'm very much against it. I'm against it because I don't think my taxes are going to go down for very long when I watch the entire retail strip two blocks away from me go bankrupt under it.

Surely the issue of taxation is not simply: "If mine go down, I'm in favour of it. If it goes up, I'm against it." That's what responsible government is about: looking at larger issues. I suspect it should be done with an impact study. There are enough lotteries in the province of Ontario. Don't do it with my city.

**The Acting Chair:** Thank you, gentlemen.

1820

#### YONGE RIDGE HOMEOWNERS ASSOCIATION

**The Acting Chair:** Now we'll go to our last group of this session, the Yonge Ridge Homeowners Association. We are running very short on time, as you realize. You do have 30 minutes, but I'm asking you to be as short as possible.

**Mr Jay S. Burford:** I don't believe I'll take the 30 minutes. My wife would appreciate your comment about a "group"; she sometimes suggests I'm getting to be a size where I create a group. I don't think I'll tell her about it, all the same.

Good day, ladies and gentlemen. My name is Jay Burford. I'm president of the Yonge Ridge Homeowners Association. We're located in the northeast quadrant of Yonge Street and York Mills in the city of North York. I'd like to thank you for giving me this opportunity to address the committee. To start with, I'd like to state that we are in opposition to the market value assessment but we are not in opposition to fair tax reform.

I'd like to read to you a letter our association sent to Premier Rae and a number of the other members last week. It's a short letter, and I think it encapsulates some of our concerns.

"Dear Mr Rae:

"Regarding market value assessment in Metropolitan Toronto, the Yonge Ridge Homeowners Association has for some time attempted to analyse the impact of market value assessment on our members in the area of Yonge Street and York Mills Road. This analysis and the most recent decision of Metro council has revealed that:

"(1) Market value assessment is not tax reform, and its application should not be considered until the Fair Tax Commission has completed its studies.

"(2) The decision of Metro council is an abortion and its application will not reflect market value of a property in any way. The new formula proposed will only further distort an already inappropriate and unfair system.

"(3) Education taxes have not been considered in this scenario, and it is our belief that education taxes must be a part of the process to identify the application of fair taxes.

"The Yonge Ridge Homeowners Association begs you to stop the proposal of Metro council, and demands that a system of fair taxes be implemented only when all facts are known, thoroughly analysed and processed through an open public review mechanism."

"Yours truly" etc.

I'd just like to talk a little about some of those points.

Point 1: I understand that the Fair Tax Commission has sent down drafts. Why not wait the few weeks until they send down their final report and use the results from the Fair Tax Commission? I believe we're paying a lot of money to have them do a lot of good research, and I don't think it's inappropriate for the taxpayers to expect that you would want to use that before you make a major decision like this, allowing Metro to go ahead with this. I hope and I believe that they are looking at something like unit value. I keep hearing about this, that this is a fairer system.

Again, I want to point out, we are not against reform. We don't think the current system is fair, but we do not believe that market value assessment is any fairer. My understanding leads me to believe that unit value will lead to a fairer system.

On point 2, that it's not MVA and it's a further distortion of an already distorted system, when I look at the caps upward and downward, and I see them going partway in some instances and some homes but not for the other category, where they go to full market value immediately and, even worse, when a home is sold it goes to full market value immediately, all I can believe is that it's going to pit neighbour against neighbour and give us a totally unfair tax system, much worse than it is now. It's going to affect the property values of sales if you allow that clause to go through, as I think is fairly obvious to most people.

The other thing that bothers us is that the market value assessment as it's proposed by Metro is based on an all-time-high assessment from 1988. It doesn't make sense to us to use that. It may seem fair from a tax point of view, but it's hardly fair to the people in their homes, who had no control over that rising market value caused by speculation.

Point 3, education taxes: I believe that we must have not just a good education system in this province, but I believe as a business person that it's imperative we get a great education system. I also believe—and this may be because I come from the school system of a number of years back—but I was always taught that one of the things the provinces fought for was that education be a provincial responsibility. And yet I believe there's some abdication of that responsibility; a total abdication, actually. The education tax should not be at the municipal level, shouldered by the municipal taxpayers. You should not be required to pay for it more than once, if you own more than one property. We should pay for education; we should pay for a terrific education system, but each person should only pay once. I think you have to take the education system out of the municipal tax system and, again, I hope that's one of the things the Fair Tax Commission will look at.

I know that the effect of market value on cottage country has been to shift even more of the education burden on to city dwellers—unfairly—a second time. They already receive very little or next to nothing for their taxes in cottage country and yet they're asked to shoulder more of it with market value. Last week in the House the Honourable David S. Cooke, Minister of Municipal Affairs, said, "There is no place in Ontario where the differences in the market vary so significantly as is the case in Metropolitan Toronto." I believe the market value assessment system in cottage country is going to work very hard to make the differences just as significant in cottage country, where the beneficiaries do not pay, while those who do pay benefit very little. Saying no to market value assessment for Metro, the largest municipality, will be a clear message from the province that this tax is unfair and must be turned around.

What type of tax is it? I believe as a taxpayer it is a location tax, applying an unfair burden to an area that becomes popular, in, trendy. People who live there have no control over this speculative increase in value. Their ability to pay an increased tax and their consumption of services hasn't changed at all. As a matter of fact—and I'm thinking of my area particularly now, where there are many seniors who are retiring and want to stay in the area. Their ability to pay may be reduced and their consumption of services is probably greatly reduced, but they desire to stay in that area: the area where they brought up their children; the area they know; where they're involved in their churches; where they're involved in their community.

We claim as a society that we want those people to stay there; we don't want the high cost of having them in homes or having them hospitalized. We say we want them to stay in their homes as long as they can and at the same time we turn around and set up a tax system that is going to tax them right out of their homes. It doesn't make sense to me; I don't understand. When they do wish to sell they'll be penalized. There's their retirement nest-egg that they thought would allow them perhaps to move out of the city, go into a home, move into smaller quarters and live in a gracious manner until their death—something they should be able to do after they've worked hard all their lives. That nest-egg is going to be reduced by the spectre of full market value for any prospective purchaser.



It also seems to me that this tax is totally unfair, based on consumption. In the Yonge-York Mills area I believe there are small bungalows that pay \$6,000, in an area without storm sewers and sidewalks and with rough roads. It's not related to the size of house; it's not related to the size of lot; it's not related to the services used; it's the effect, in many cases, of the monster home sales of 1988. The increased taxes will be raised even more by the effect of the monster home sales of 1988. I live in an area where many homes were bought, torn down, and monster homes were built—all in speculation. That's going to raise the price in the whole area. But those people in those little bungalows don't have any more money to pay the taxes with. They didn't get any more money, because they didn't sell in 1988. Should they be punished for that? I don't think so; I don't think so at all.

The uncertainty of market value from one assessment to the next will leave them continually wondering how their taxes are going to go and whether they can stay there. I think that will drive many out, because they're trying to budget on a pension income and I don't think they'll be able to handle not knowing where their taxes are going. I believe you must look at a unit assessment system.

#### 1830

To conclude, I urge you please to hold up Bill 94 until the Fair Tax Commission reports. Get all the facts, then have public reviews and talk to the people. I believe you must find a better tax system. I don't believe the current one is fair, but I don't believe that market value is the answer.

I urge you to look at your education. If it's a provincial responsibility, then let's find a way to make it a provincial tax and look after that, and take it out of the municipalities.

I believe that if you do nothing else, you must stop full market value at the point of sale on homes. I think that will create a totally unfair system and hurt so many people, especially the elderly, that I just can't believe you would leave it in.

Thank you again for allowing me to have this time. I hope I haven't taken too much of it. I tried to be brief.

**The Acting Chair:** Thank you for your presentation.

**Mr Turnbull:** Thank you very much for an excellent presentation.

You spoke about the phenomenon of monster homes going into York Mills riding, and specifically the area that you live in. Could you tell the committee a little bit about what happened in 1988 and expand a little bit on that?

**Mr Burford:** On some of the streets in our area in 1988, I'd say a half to two thirds of the homes were bought, torn down, and monster homes built there. It was a speculative aberration in the market, a bubble. Certainly many of the homes sold; many did not. Many were still sitting there and have sold now at much lower prices.

Certainly the biggest concern I have is not so much for the people who bought those homes but for the people who are still there in the smaller bungalows sandwiched between those homes. Their lots are going to be assessed at 1988 values, and in 1988 I don't think any value was given for the home; it was strictly the lot that was wanted to build the monster homes on. I think that's totally unfair to these people. They'll be taxed right out of their homes. In many instances

they're retired or very close to retirement, and they just won't be able to afford to handle that sort of tax increase.

**Mr Turnbull:** I think it's fair to say that the area we're talking about went up higher than the others and came tumbling down more than the others.

**Mr Burford:** I believe that to be true. I'm not in real estate, but certainly from things I hear in the neighbourhood, it sounds like that is very much the case, that the prices went extremely high because we're close to the subway. It seemed like a desirable location: again, a location tax. Certainly prices, I believe, have come down significantly because, as I said, some of the builders got caught holding large homes. I think that kind of convinced some of the others this wasn't the time to be there.

**Mr Wiseman:** I have two quick questions. You say that education is a provincial responsibility. I can tell you that the trustees in my area would have a great deal of difficulty agreeing with you on that. If your implication from this is that the boards of education should be eliminated and the responsibility for education should be a provincial purview, I think you're looking at a major jurisdictional war.

The second thing I'd like to say is that I have a great deal of sympathy for the people who live in neighbourhoods with the monster homes. I think the culpability of that lies solely and strictly on the shoulders of the councillors who rezoned those areas or allowed whatever zoning bylaws to be ignored or to be changed to allow those houses to be built, changing the whole nature of the neighbourhood.

I think there's a second question in terms of another issue here: What protection do home owners have? What can you reasonably expect your local councils to do, given the zonings and the designations in whatever official plans they have? In terms of future battles, I think there are two major issues that need to be addressed in the ongoing quest for some tax equity.

**Mr Burford:** On the first question, I don't pretend to know enough to suggest whether the school board should be dropped. I'm suggesting that the taxation should come from the province because I understand the province implements a number of the programs and forces them on to the boards, like junior kindergarten in areas that don't want it; things that, as I understand it, pass through the province without the funding to go with them.

I believe the funding should come from the province and you should only be taxed once. As I say, I want a good education system, believe me. I think we need that in this country. That's probably one of the highest priorities I would give in this country but I don't have all the answers. I hope the Legislature can come up with some and maybe the Fair Tax Commission can come up with some.

On your second point, I agree with you that the local councils have to do something about the monster homes. I'm very fortunate, I believe, and I think most of our ratepayers believe—it's not perfect—but being in North York, I believe they were the first ones to step up to that issue. Our councillors did go to bat for us and they put in the strongest monster home rules that I believe are in the province, or were at that time. They brought in the first set. Certainly, when you have a problem, you're able to phone our councillor and she tries to get someone out there to fix it and negotiate it. They tried to

put things in to stop some of the many problems and many of the complaints from the contractors who were building the monster homes. It's not perfect but at least we have some protection in North York, and I appreciate the fact that our council at least made an attempt.

**The Acting Chair:** Ms Poole.

**Ms Poole:** Quite frankly, Mr Chair, I'm very surprised that Mr Wiseman would bring up those points about removing education funding from the property tax system in such a way. It's obvious that he hasn't refreshed his memory and read the Agenda for People recently, because that's what the NDP government had recommended. But I guess he's forgotten all about that.

Mr Burford, thank you very much for your presentation today. You've really made a lot of well-thought-out points but I'd like to touch on two. The first is that you have pleaded with the government not to allow homes to go to full market value at the point of sale, and I think virtually every presentation we've received to date from city of Toronto residents, and city of North York residents for that matter, has made the same point.

I just wanted to let you know, because I wasn't sure if you were in the room earlier when it was discussed that we will be giving the government an opportunity to rethink its position and that I am proposing an amendment. I will be bringing forward an amendment which will continue to protect homes at the point of sale so that the cap is on. So really, this government has the majority and can do with this what it will but we will be giving it the opportunity to rethink it. I just wanted to let you know that.

The second thing you mentioned was actually in the form of a question. You talked about the Fair Tax Commission and you said, "Why not wait a couple of weeks for this report?" Quite frankly, it is a very reasonable suggestion, particularly because for two years we've heard this Fair Tax Commission touted and what it is going to do to bring forward all the research and the thoughtful thinking in the area of taxation. I guess the answer I would give to you is because—

**The Acting Chair:** Can we get a question instead of an answer, Ms Poole?

**Ms Poole:** Okay. Can I finish my sentence before I ask him the question?

**Mr Mammoliti:** Are you not going to let her continue to bash?

**Ms Poole:** It's not bashing; it's the truth. I don't think the government wants the Fair Tax Commission report. I've seen part of the draft that is out and it is very critical of market value and this whole plan. It is critical of market value as a system, so I suspect that is the real answer behind it.

Mr Burford, the question I would have for you today—you've talked about these small bungalows paying \$8,000—

**Mr Burford:** Six.

**Ms Poole:** Sorry, \$6,000. Is it your opinion that this plan will just simply trade one set of winners and losers for another set of winners and losers in that it will trade one set of inequities for another set of inequities?

**Mr Burford:** Yes, that is the case. As I say, I believe we do need tax reform. I believe there are inequities now but certainly nothing I see in this plan suggests to me that it's going to make it an equitable system at all. As a matter of fact, it appears it will make it more inequitable, especially when you get things like capping up and down and then full market value for other people, either the ones in the "other" group or the ones when you sell a home. To me, that just states right from the beginning that it's going to be an inequitable tax and it says it almost right out.

But again, don't misunderstand. I don't think the current system is right either, and I do agree that we need to have a reform, but this isn't it, from what I can see.

**The Acting Chair:** Thank you, sir.

As you know, we were supposed to be back at 7 o'clock, so there are 20 minutes left before our next presenter, the Tenant/Landlord Coalition for Equal Taxation. Are these people in this room? No. Is it agreed that we should end our recess at 7:15, that we should resume at 7:15? Agreed.

**Ms Poole:** Are the next presenters here?

**The Acting Chair:** No, they're not.

**Ms Poole:** That would be my only concern, if this is problematic for them.

**The Acting Chair:** Is it agreed? Agreed. Thank you.

**Ms Poole:** Can we say 7:15 sharp and start, regardless of representation?

**The Acting Chair:** Yes, 7:15 sharp.

The committee recessed at 1841.



## EVENING SITTING

The committee resumed at 1918.

**The Acting Chair (Mr Michael A. Brown):** The standing committee on social development will come to order. Mrs Poole.

**Ms Poole:** Mr Chair, I have a motion that I would like to put before the committee. I don't want extensive debate on it, because I don't want to delay going into the public hearings, but I think this is a very important issue.

I hereby move that the Minister of Municipal Affairs be requested to attend the social development committee to answer questions on market value assessment at any of the following times: Wednesday, December 2, 1992, from 12 noon to 1 o'clock or 6 o'clock to 7 o'clock; Thursday, December 3, 12 noon to 1 o'clock or 6 o'clock to 7 o'clock; Friday, December 4, 12 noon to 1 o'clock or 5 o'clock to 6 o'clock; and then Saturday or Sunday, 12 noon to 1 o'clock, 5 o'clock to 6 o'clock.

I furthermore move that the Minister of Municipal Affairs be requested to confirm at the earliest possible opportunity which date he will be available for committee questions.

Just to briefly speak to this, Mr Chair, I've reiterated on a number of occasions—

**The Acting Chair:** Are there copies for other members of the committee?

**Ms Poole:** I'm sure there could be.

**Mr Turnbull:** I move that the question now be put in the interests of—

**Ms Poole:** You want me to put the question?

**The Acting Chair:** No, I want you to—

**Mr Owens:** Excuse me, Mr Chair, I'd like to request a 10-minute recess.

**Ms Poole:** Oh, come on.

**Mr Mills:** You caused it.

**Mr Owens:** The request is in order.

**Ms Poole:** What do you mean, I caused it?

**Mr Mills:** Of course you did. You know what you're saying.

**Ms Poole:** You caused it because you refused to have to your minister come.

**The Acting Chair:** Order.

**Mr Turnbull:** Is it not reasonable to ask the minister to come?

**Mr Mills:** This isn't good politics. We've got the public here.

**Mr Turnbull:** Is it not reasonable to have the minister—  
[Failure of sound system]

**Ms Poole:** They are saying it is inappropriate for the minister to attend and answer questions of the committee.

**Mr Owens:** The vote was being called and I had requested—

**The Acting Chair:** There was no vote called. I did not call a vote.

**Mr Owens:** You requested that the mover of the motion put the question.

**The Acting Chair:** No, I didn't.

**Ms Poole:** He said no when I asked him.

**The Acting Chair:** No, I did not.

**Ms Poole:** He said no, he was asking me to comment.

**The Acting Chair:** No, there was not debate on the motion.

**Ms Poole:** I have provided here 10 different times when the minister could be invited to appear before a committee without inconveniencing or taking away from any of the public time.

I find it totally unacceptable that this government would refuse to have the minister attend. I find it totally unacceptable that the Minister of Municipal Affairs is ducking these questions to which we are owed answers and to which the people in Metropolitan Toronto are owed answers.

I would ask that this government support this motion. It is a reasonable one and it provides plenty of opportunity for the minister to come at his convenience. I'll tell you one thing: If these government members vote against this motion, that means it's a whole mockery of what they said about an open consultative process. It's a mockery of saying they're open government, and I'll tell you one thing: People will not accept it.

**The Acting Chair:** Further discussion?

**Mr Owens:** We're in recess.

**The Acting Chair:** Those in favour of Ms Poole's motion?

**Mr Owens:** I'd like to request a 10-minute recess.

**The Acting Chair:** It's a 20-minute recess.

**Mr Owens:** A 20-minute recess. Thank you.

**The Acting Chair:** Mr Owens has requested a 20-minute recess on the vote. The committee will reconvene at a quarter to 8.

**Ms Poole:** Mr Chair, would Mr Owens accept a five-minute adjournment, or now that he has the votes he needs—

**The Acting Chair:** That's the standing orders.

**Ms Poole:** Unanimous consent?

**Mr Owens:** I'll go for 10.

**Ms Poole:** You've got your members. Why are you doing this to the witnesses who are here?

**The Acting Chair:** Reconvene at 25 to 8.

The committee recessed at 1923 and resumed at 1933.

**The Acting Chair:** The standing committee will come to order. Mrs Poole has moved a motion that is before every member. All in favour of Mrs Poole's motion? Opposed? The motion's lost.

#### TENANT/LANDLORD COALITION FOR EQUAL TAXATION

**The Acting Chair:** Our first presentation this evening will be made by the Tenant/Landlord Coalition for Equal Taxation. Welcome to the committee. The committee has allocated 20 minutes for your presentation. The committee always appreciates time to ask questions following the presentation so, in your presentation, please govern yourself to allow some time. It's necessary for the Chair, under the orders

of the committee, to be very strict with the time limits. If you'd like to introduce yourself for Hansard, you may start.

**Mr Andrew Stewart:** My name is Andrew Stewart. I'm a representative of the Tenant/Landlord Coalition for Equal Taxation. This organization was formed recently by Metro tenants and landlords. Being taxed equally is about the only issue which those for or against market value assessment or those for or against rent controls can agree. In the past month we've informed over 100,000 tenants in Metro of the inequity. We have now over 10,000 tenants who have actively responded to the organization, and landlords and property managers of over 100,000 units are also actively involved.

It is with some relief that this committee has been asked to review the proposed legislation as you better understand the basic facts with which tenants are faced. According to Statistics Canada, tenants earn almost half as much as home owners and have less net worth. While tenants represent over 50% of the population of Metro Toronto and over 30% of the province, they are not treated equally with home owners.

Under the Assessment Act, tenants in multiresidential buildings are taxed at a rate here in Metro Toronto at three and a half times those in houses. This is indisputable and it is not new. The province inherited this basic inequity in 1970 when it took over the assessment system and successive governments have allowed it to continue.

You have before you a request by Metro Toronto to allow a reassessment plan which requires amendments to three separate acts and the repeal of sections of another five acts. Yet nowhere do we see any attempt to deal with the fundamental inequity between tenants and home owners. Amazingly, the Assessment Act which perpetuates this incredible injustice remains unamended. This inequity costs Metro tenants \$1 million a day. Over five years, this will amount to \$1.8 billion. Which is the greater inequity here, \$100 million between home owners or \$350 million between home owners and tenants? Depending on whether one accepts the arguments of market value or not, one will accept or reject the \$100-million home owner inequity as fact or fiction. But under any assessment system, whether it be market value or unit value, tenants pay three and a half times the taxes as home owners, or \$350 million a year.

Is this committee aware that the province of Manitoba in the fall of 1991 announced that it will equalize the effective tax rates among all residential classes and that Metro council unanimously passed the following resolution: "the provincial government be requested to redress the current assessment that perpetuates inequities between home owners and tenants"?

I am a member of the property tax panel of the Fair Tax Commission, and in its report, which will be released next week, the panel recommends that "All residential properties should receive the same treatment for assessment purposes, regardless of their ownership and occupancy status. The assessment system should not favour one property type over another or one type of property tenure over another."

Does this committee honestly think that once these proposed amendments for Metro are passed, either Metro's resolution or the recommendations from the Fair Tax Commission will be implemented? Indeed, one of the Minister of Municipal Affairs' assistants said candidly that Metro officials

directed the ministry to ignore the unanimous resolution. What kind of politics is at play here?

I'd like to proceed now on to a more technical aspect, which is the tenant pass-through mechanism. The tenant pass-through mechanism is in a shambles and is unworkable for the following reasons:

(1) Thousands of tenants will not be covered by the automatic pass-through provision. Neither Metro nor the province have estimated how many tenants fall between the cracks. Their attitude has been cavalier and misleading. We estimate that over 50,000 for-profit rental units are not covered by section 113 of the Rent Control Act. There are 21,185 rental units in duplexes and over 14,000 in three- to six-unit buildings. Furthermore, CMHC lists 10,000 condominium rental units which are not covered, but this estimate does not include condos privately owned and rented, which would account for many thousands more. There are thousands of tenants in apartments above stores or in basements which will similarly be left out. Finally, the rent register for buildings of seven units or more is not complete. How does Metro plan to keep its promise that all tenants will receive an automatic pass-through? Certainly the Ministry of Housing has no plan, nor is there anything in the proposed legislation before you to address this.

(2) Under the current legislation, tenants are expected to pay rent as if no tax decrease has occurred for the first half of 1993. Thus, landlords will overcharge by one half of the expected decrease for one year. On the other hand, tenants who are to receive rent increases due to higher reassessments get at least a one-year break, because the current legislation only allows landlords to file for extraordinary cost increases after the final tax bill has been paid. Thus, landlords will not be able to recoup the tax increases until 1994. As the increases and decreases occur in separate buildings, these inequities do not balance out. This unequal treatment on both sides is unacceptable to us.

(3) The registrar proposes that rents will only be decreased if the impact is at least \$5 a month, or \$60 a year. Are home owners similarly treated? Absolutely not. A dollar decrease for them is a dollar saved. Why should tenants not be treated equally?

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(4) Section 113 of the Rent Control Act is inconsistent with section 29 of the act, which permits operating cost increases and decreases. The method of allocating cost decreases through the rent register is based on a dollar amount, yet the rest of the act allocates as a percentage of rent. This inconsistency was not understood by David Braund, the rent registrar. Isn't it a little late in the day to educate those officials who are to implement the pass-through on the various clauses in the act?

I might add that when Bill 121 was before another committee, I'd also provided a brief on that as president of a tenants' association and mentioned the same problems, and these have not been addressed.

In conclusion, the current legislation before you is inadequate for a number of reasons. It maintains the current status quo in which tenants who are at the lower end of the income scale pay three and a half times the taxes of home owners. The pass-through mechanism does not cover at least 15% of all tenants in private rental accommodation and treats increases and



decreases differently. The legislation should be amended to at least tax all residents of Metro Toronto equally, as requested unanimously by Metro council and as demanded by thousands of tenants.

I really think the basic issue here is that the legislation before you and this market value plan as proposed will serve as a roadblock to tenants in terms of making it much more difficult to deal with the inequity next year or the year after. As I have said, each day that goes by costs us \$1 million, and that amounts to about \$100 a month in rent per tenant in Metro Toronto.

I think that you, as a social development committee, should realize that some of the demand for food banks and other social agencies and their services will, of course, decrease if you actually deal with the affordable housing issue. This is an affordable housing issue and should be dealt with now while Metro has asked you to deal with it, because next year that resolution can be pulled and it's going to make it much more difficult to deal with it at the provincial level.

**The Acting Chair:** Thank you. We have approximately four minutes per caucus for questions. Mr Mammoliti has expressed an interest.

**Mr Mammoliti:** Let's talk a little bit about the inequity for a second. First of all, if this goes through, approximately 200,000 units out of the 350,000 units in Metro will experience a decrease in rent, if I'm not mistaken. In terms of the inequity, if we did what you've asked us to do, how many tenants would actually experience a decrease in Ontario? Because what you're asking is an Ontario-based policy, right?

**Mr Stewart:** Right. Out of 31 jurisdictions that the Fair Tax Commission looked at in terms of cities or regions, there were only two that actually had tenants paying less than the commercial rate, which is still much higher than the single-family residential rate. So if this was addressed, every tenant who is in a multi-res building which is seven units or more would experience a decrease in rent.

**Mr Mammoliti:** Do you have an average?

**Mr Stewart:** It all depends on jurisdiction. Here in Toronto it would be about \$100. In Ottawa, they pay—I think the inequity is about two times. Some inequities are more. I think Metro Toronto is the worst. Etobicoke is the highest on average, at a little over four times. But Thunder Bay, Sarnia, they all have the same problem.

**Ms Poole:** Thank you for your presentation tonight. I think you've laid out the issue very succinctly.

On page 1 of your brief you referred to the report of the property tax panel of the Fair Tax Commission. It is anticipated that this report will be out next week, and the panel recommends that "all residential properties should receive the same treatment for assessment purposes, regardless of their ownership and occupancy status."

I presume from this that this means you would equalize the taxes between single-family home owners, who are assessed at 2.2% of their value, and tenants of multiresidential units, which are assessed at 8%. Is that what the Fair Tax Commission is actually going to recommend, that the tenants would be brought down and the home owners would be brought up, that they would have one class for residential properties and that the two would merge?

**Mr Stewart:** Right. The Fair Tax Commission is very specific that it's talking about assessment and that the assessment would be equalized. There are other things they're talking about in terms of variable mill rates, which means they're putting the pressure back down on to the municipalities to be much more visible in any kind of tax policy where you're going to tax tenants maybe higher than home owners. Actually, the recommendation is that it would be for a limited period of time only, through a transition phase.

**Ms Poole:** You've asked a couple of questions in your brief specifically about the issue of whether tenants are going to receive their automatic pass-through and whether this legislation is fair to tenants. Two questions specifically you've asked: How does Metro plan to keep its promise that all tenants will receive an automatic pass-through? Secondly, why should tenants not be treated equally? That was a later question.

With your permission, I would ask the Minister of Municipal Affairs to answer these questions, since he's also a former Minister of Housing. It appears that's the only way we'll get any answers out of the minister—with your permission.

**Mr Stewart:** Yes.

**The Acting Chair:** It's customary to just have the conversation with the presenter, but if the minister wishes—

**Hon David S. Cooke (Minister of Municipal Affairs):** Mr Chair, I've come to listen to presenters tonight and that's what I'd like to do. Perhaps if the member would like, at some point, since we are talking about Metro's plan, to put some of those particular questions to Metro.

**Ms Poole:** Mr Chair, this is totally unacceptable.

**The Acting Chair:** Ms Poole, the conversation is with the presenter.

**Ms Poole:** Through you, Mr Chair, to the presenter: I find the minister's comments totally unacceptable. This is out of Metro's hands at the moment. It is up to the Ministry of Revenue. It is up to this NDP government that if those factors are to change, if tenants are actually going to be equalized with home owners as far as the assessments on their properties are concerned, the only way it can happen is through legislation of this provincial government, this NDP government.

I say to the witness that I'm sorry you didn't get any answers to your questions today, but nevertheless, they're very valid questions that this government is going to be faced with answering, particularly if it wishes to continue to say it protects the rights of tenants. Thank you for your presentation.

**Mr Turnbull:** Mr Stewart, you bring forward a very important issue, one which I raised during debate on second reading, that the government is missing a historic opportunity to balance tenants' taxes with home owners' taxes. I can't think of a better time to do it. You've seen that we can't get any answers out of the ministry and the minister because they want to take the position that this is Metro's plan and they've got nothing to do with it. Yet it's quite clear that this government is an interventionist government and in many issues has intervened against the wishes of municipalities. Why aren't they doing it now for tenants?

In your position, sitting on the property tax panel of the Fair Tax Commission—you talked about the study that will

be out next week. My first question is, do you not think it would be reasonable that this government should wait and stand down all this legislation until after we've had an opportunity to read the report of the Fair Tax Commission? Do you believe there will be a significant impact if we were to take into account the recommendations of the Fair Tax Commission?

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**Mr Stewart:** I would hope they would wait until the Fair Tax Commission reports, because I think the recommendations that are made specifically to tenants, which I've been working on for over a year, are good recommendations. Just taking into account that one third of the panel is from municipalities across the province, one third is from school boards and one third from other property classes—I was the only tenant on the panel—yet they too felt that there was this inequity which had to be addressed.

They will recommend transition periods and mechanisms to make it much easier to implement this. I don't think we can expect to implement something tomorrow where home owners are going to get a significant increase in property taxes, but I think we should be moving towards that. I think that's where, by listening to the Fair Tax Commission, there is an elegant way of moving towards equal taxation, which we don't have now.

**Mr Turnbull:** Yes. I believe the Fair Tax Commission looked at other models. They used Pickering as an example and they ran against income tax returns, both market value and unit assessment. Could you tell me about the results of that?

**Mr Stewart:** Basically, they felt that market value was not a good indicator of ability to pay, nor was unit value assessment. I think the bottom line is that neither method is good if you're going to use, as your criterion of selecting an assessment system, ability to pay.

**Mr Turnbull:** Are they coming out with some definite recommendation as to what kind of model they would like?

**Mr Stewart:** No. In fact, they're asking for more studies to be made.

**The Acting Chair:** Mr Owens has a question.

**Mr Owens:** Just a quick question since we seem to have to moved into the Fair Tax Commission report. In terms of the report, what is the recommendation then to deal with the rather bizarre assessment process that currently exists between, for instance, office buildings and commercial properties, whether it's a store versus a mall and all the other permutations that seem to exist?

**Mr Stewart:** It's been a while since we looked at that, but I believe what they're planning to do is suggest that maybe there should be a subclassification so that you can make some adjustment for some of the perceived inequities in the methods of assessment between large office buildings and smaller strip malls and commercial stores.

**The Acting Chair:** Mr Wiseman, very quickly.

**Mr Wiseman:** Real quick. In the United States, in their cities, they have property tax, income tax and a commercial tax. Did you do any analysis of how that system would work and whether that was more equitable or fair than what we're looking at now?

**Mr Stewart:** You're asking whether we did it in the Fair Tax Commission? We looked at it briefly. I think we felt that the province should move away from its overreliance on property tax, but we did not recommend a municipal income tax. We still think the income tax should be the purview of the province.

**The Acting Chair:** Unfortunately, the time is complete. We appreciate your presentation to today. I'm sure all members will take careful note of it.

JUDY SMILEY

**The Acting Chair:** Our next presentation will be from Judy Smiley. As she's coming to the desk, I would ask, just to be helpful to the Chair, if people could indicate their wish to ask a question so that I can do the caucuses one at a time. It makes it easier to keep track.

Good evening. The committee has allocated you 10 minutes for your presentation. As you've seen, we appreciate some time to have a conversation with you. You may introduce yourself for the purposes of Hansard and begin.

**Ms Judy Smiley:** My name is Judy Smiley. I'm a tenant living in the city of Toronto. My chief concern with Metro Toronto's proposed market value assessment plan is that it does not rectify existing inequities between home owners and tenants.

I currently pay \$2,500 a year in property taxes on a one-bedroom apartment because the building I live in is assessed on the basis of being a commercial property. However, as a tenant, my use of the unit is restricted to residential accommodation. In fact, under the terms of my lease, I'm not allowed to use my apartment for commercial purposes.

The assessed value of the building is based on its annual rent rolls. Under landlord and tenant legislation, 100% of the property tax bill can be passed through to tenants as a component of their rent. So in the end I'm paying 100% of a commercial tax rate for a purely residential unit.

However, if I were the owner of the same residential unit, my taxes would be much lower. I cite the example of a building on my block of comparable vintage and size which recently became a co-op. Residents saw their property taxes reduced by 60% as a result of being reclassified, even though no material changes were made to the building itself. If the same reclassification were applied to my building, my taxes would drop from \$2,500 to \$1,000 a year.

A tenant has to be somewhat of a detective to determine exactly what his or her property tax bill is because the tax is buried in our rent. Furthermore, there's no clear-cut mechanism in place to allow tenants to dispute their assessment as they're not owners of the property. I think most tenants would be astounded to find out that their homes are taxed at a rate as much as three times higher than the average home owner. The question is why?

Do we consume more services than home owners? This suggestion is ludicrous. Are we more able to pay than home owners? This suggestion is even more ludicrous. Most of the tenants I know are not tenants by choice. Being a tenant is a question of economics. On average, tenants have lower household incomes than home owners and are therefore not in a position to own their own homes, so why is our annual property tax bill three times as much as home owners?



Let's not underestimate the impact of this tax burden on tenants. The property tax bill on a \$750 apartment would be lowered by over \$100 a month if the effective tax rate were realigned with that of home owners. This means an extra \$100 a month for food, clothing and other essentials in the pockets of lower income households.

As a group, tenants in Metro are overpaying by \$1 million a day. Think of how far this amount would go to reducing line-ups at food banks and other social service agencies. It disturbs me that this inequity has not been addressed as part of the overhaul of the property tax plan. If market value assessment is an attempt to redistribute the tax burden, why has more than 50% of the population been left out of the equation?

Our attempts to have the municipality of Metropolitan Toronto address this problem as part of its overhaul of the property tax system did not lead to a satisfactory solution. While tax increases for tenants have been capped at 10% this move barely begins to rectify the gross inequity between tenants and other residents. Not until assessment rates for tenants match that of home owners can reassessment be achieved on a fair and equitable basis.

Metro has requested by unanimous resolution that the province amend the Assessment Act to redress the current assessments that perpetuate inequities between classes of residents. We now look to the provincial government to proceed with such amendments in order to force all municipalities to create one class of residential taxpayers.

**The Acting Chair:** Thank you.

**Ms Poole:** Thank you very much for your presentation. It reinforced what we just heard from Andrew about the unfairness to tenants.

There is one statement that's been made tonight that might be very misleading to you because it may be very confusing for you. When the minister was asked about his government's commitment to bringing in legislation or amending this legislation to ensure fairness for tenants, he said to me, "Go back and ask Metro."

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For the record, I want to state that assessment is a provincial responsibility. Metro cannot amend the legislation to bring fairness to tenants in this way; only the Minister of Revenue can do that. So I think it is incumbent upon the Minister of Municipal Affairs to commit to you and to Andrew and to the hundreds of thousands of tenants across Metro that his government will amend current legislation to equalize assessment so that tenants are treated fairly. I hope that the minister will give that type of commitment to you. I guess the minister wasn't listening, so you may not get that commitment.

**Mr Mills:** Now, that's a bright remark.

**Ms Poole:** It's true.

**The Acting Chair:** Order.

**Mr Turnbull:** Thank you for your remarks. We're kind of frustrated in the opposition benches at the moment. For the government that says it is concerned about tenants, it's missing this opportunity. It was requested by Metropolitan Toronto to look at this inequity, and it has done absolutely nothing. All they are doing is rubber-stamping this and sending it back to

Metro. I'm hard pressed to believe there will ever be a better time to right this issue.

What I'm searching for from you, because I understand what you're saying so well and indeed I've commented on it in my debate in the House, is that I'm trying to find some way of making the government understand what it is doing to tenants in this respect. It's very difficult to formulate a question, because I'm in total agreement with you, as to what you would say to the minister if the minister were prepared to answer you. What would you ask him to do at this moment?

**Ms Smiley:** I'd like to ask for a commitment that this inequity is going to be rectified. It's my understanding that what really needs to change in the whole system is the assessment, and that's under provincial jurisdiction. As far as I understand, part of the reason that the province is looking at Metro Toronto's program right now is because it has asked for some changes to caps in various categories—for example, the 10% ceiling on increases to tenants. If the assessment rates are not changed, there's no way we're going to be able to eliminate this inequity. Tenants are at 8% and home owners are at 2.2%; it's as simple as that. Until you've got one class of residential taxpayers, you're just never going to remove this gross inequity between tenants and landlords.

**Mr Mammoliti:** I just want to separate, for a second, property tax reform as opposed to Metro's proposal, the actual thing that we're talking about in these hearings, and how we feel about the proposal itself. I know that they're tied in, and I know that we've got to do something in terms of a provincial structure in property tax. What the Liberals are certainly proposing, from what I can see, is that we move in that direction right away, we perhaps implement what you're talking about and have the home owners make up the difference right away. I'd like to ask her another time how she would feel and how her home owners would feel about that if we did that right away as opposed to thinking about it and doing it constructively over the next little while.

Understanding what you're saying about property tax reform, and also understanding that 200,000 out of 350,000 rental units in Metro will experience a decrease in rent, how do you feel about the proposal in terms of renters?

**Ms Smiley:** We may be looking at 200,000 units that are going to experience a decrease, but as far as I'm concerned, when 100%, in other words the 350,000, are already overpaying, why aren't all 350,000 units experiencing a drastic reduction?

**Mr Mammoliti:** I'm just asking you to try to keep it separate, because it is separate. What you're talking about is reform to a provincial policy.

**The Acting Chair:** You may respond if you wish.

**Ms Smiley:** Once Metro's plan is in place, and we're looking at a plan that's a five-year plan to last until the end of 1997, my feeling is that nothing is going to be done in that five-year period if we don't speak up now. We're talking about a pretty massive change to begin with. In my experience, once it's put in place the issue's going to be dropped. If you're going to go through the whole process of making drastic reforms, and obviously certain people are going to be dissatisfied—anybody who's going to end up paying more is

going to be dissatisfied—but if you're going to clean house, let's clean the whole thing.

**The Acting Chair:** We appreciate your presence here tonight. I'm sure the members will consider your remarks closely.

RAY MERKIN

**The Acting Chair:** The next presentation is from Ray Merkin.

**Mr Ray Merkin:** My name is Ray Merkin. I have two stores, one in Yorkville and one on Yonge Street. On November 3 my partners and I wrote a letter to the Premier of Ontario. I would like to read that now.

"Dear Sir,

"I am writing to you to protest against the implementation of MVA and the devastating effect it will have on downtown Toronto. I have no political affiliations; therefore I am not writing partisan propaganda but am putting forward the views of a concerned Toronto citizen and business owner.

"The present situation has evolved through many years of procrastination by previous Metro and provincial governments. However, this very procrastination has resulted in the growth of small, distinct neighbourhood communities unique to Toronto.

"They are the charm and allure of the city: They are the city. When the full impact of MVA is implemented, these communities will be obliterated. The future of Toronto, from Parliament to Bathurst, Lawrence to the Lakeshore, will be a sterile concrete monolith.

"MVA as currently proposed is not a fair taxation system and should be rethought. Further, any tax increases in this depressed business economy (even the interim totalling in just 25 months from now) will only deepen the recession and will not raise more income for either the city, Metro or the school system. It will only destroy the downtown core.

"You cannot allow this to happen. It is utterly irresponsible of your government to approve a plan whose social and economic repercussions are so poorly understood. I suggest a full public enquiry be held where fears such as mine can be raised and answered."

That was the letter faxed to the Premier on November 3. I do not know if members of the committee realize the crippling effect the recession is having on this city. With market value assessment, even the 10% added to the automatic 5% increase in business taxes, plus the same 15% added to the realty taxes on our net-net leases bring an increase of a few extra thousand dollars a year to small businesses. Where in God's name can we find this extra money?

During the past two years of the recession I have had to personally lend my business \$18,000, and will I see it returned? There's an old English expression; it's very nice. It's "Not on your nelly."

2010

Members of the committee, and I specifically address—I don't know which ones of you are the NDP, but people voted you in because we believed you represented the people. Well, which people do you represent? You have almost accomplished the financial genocide of the middle class. The people with money do not want you, and with the passing of market

value assessment you destroy the very ridings of Toronto that put you in office. I beg you, please do not make the letters NDP mean No Darned Prosperity.

**The Acting Chair:** Thank you.

**Mr Turnbull:** I understand how emotional you must be about this. My wife is a small retailer, and indeed market value assessment is the very issue that brought me into politics.

One of the great problems we have with the present system and with any update of market value is that it assumes that because a building has a certain market value at a given point in time, somehow that business, when we're talking about a business, has an ability to pay X number of dollars of taxes. This is a fundamentally flawed idea. Indeed, many of the people who have been fighting MVA recognize that the present tax system is inequitable and have suggested that, rather than replacing it with another set of inequities, we fundamentally change it, and one of the alternatives that has been suggested is unit assessment.

**Mr Merkin:** What I suggest is that we have full public meetings and public inquiry to see which is the right way. I do agree. I have never said, ever, that we should have the taxes go down. This is a flawed system at the moment. It is totally flawed. It is going to destroy Chinatown. It's going to destroy it totally. Yorkville will be finished—all the areas that exist in Toronto.

I've lived here for 40 years. This is my home, this is the city I love, and my God, I'll fight for it. I'll fight for this city, and I will not let it be destroyed.

**Mr Owens:** Well, sir, I happen to live on the other side of Victoria Park Avenue, and I have the people I represent coming to me and telling me that they're paying too much in taxes. But of course, that's not an issue here.

**Mr Merkin:** It's always an issue, but if we do look at certain facts and figures, the city of Toronto cannot even collect its whole taxes; 46% of the revenue supposed to come in from property taxes on September 22 had not been collected, and 46% of the total revenue coming into Toronto is paid out to Scarborough, to North York, to all the other cities around in Metro Toronto.

**Mr Owens:** Quite frankly, I think this argument that keeps going back and forth about "We subsidize you" or "You subsidize us" is a facile argument. We all use the same services. We all use the same transport system.

**Mr Merkin:** I entirely agree with Mayor Rowlands: "Get the city of Toronto out of Metro." It is the most sensible suggestion I've ever heard.

**Mr Owens:** Well, that's—

**The Acting Chair:** Mr Grandmaitre.

**Mr Merkin:** I will endorse her and I'll put her back in again, if she runs on that platform.

**Mr Grandmaitre:** First of all, I want to thank you for your compelling presentation, and I'd like to refer to your letter of November 3 addressed to the Premier and the fact that the Premier refers his correspondence to the responsible minister. Mr Chair, can I ask the minister to respond?

**The Acting Chair:** Mr Grandmaitre.

**Mr Grandmaitre:** I'm sorry?



**The Acting Chair:** Ask Mr Merkin.

**Mr Merkin:** No, sir, we had no response. This was faxed; it was not sent by mail; it was faxed.

**Mr Grandmaître:** But you haven't received any answer.

**Mr Merkin:** No reply.

**Mr Grandmaître:** Would you like an answer to your letter?

**Mr Merkin:** I think it would be extremely polite of the Premier to reply.

**Mr Grandmaître:** It would be what? I'm sorry.

**Mr Merkin:** Extremely polite, sir.

**Mr Grandmaître:** Would you like to hear from the minister this evening?

**Mr Merkin:** Yes, certainly.

**Mr Grandmaître:** Good. Mr Chair, can I ask the minister to respond?

**The Acting Chair:** The time has expired for this presentation. Thank you very much for appearing this evening, Mr Merkin.

#### FAIR RENTAL POLICY ORGANIZATION OF ONTARIO

**The Acting Chair:** The next presentation will be from the Fair Rental Policy Organization of Ontario, if they could come forward, please.

I believe your presentation has been distributed to the members. I would appreciate it if you would introduce yourselves for the purposes of Hansard. The committee is allocated 20 minutes.

**Mr Philip Dewan:** I'm Philip Dewan, president of the Fair Rental Policy Organization.

**Ms Florence Geneen:** I'm Florence Geneen. I chair the Fair Rental Policy Organization.

To begin, I'd like to thank the Chair and the members of the committee for the opportunity to appear this evening. As the public response to the hearings indicates, there is widespread interest in and concern about Bill 94, not least among landlords and tenants.

As the largest landlord organization in the province, with a majority of our 1,000 members having at least some units within Metropolitan Toronto, the whole MVA debate has been of more than academic interest to us. Fair Rental has never taken a position for or against market value as a principle, but we do have concerns about the specific Metro proposal.

I would like to confine my comments this evening to two issues related to the bill: first, the continuation of the inequitable property taxation of tenants and, second, serious problems and uncertainties in the way in which the MVA reassessment is to interact with the rent control system.

First of all, the tax fairness issue: We all know that in the pure economic sense, property taxes are more difficult to target than income taxes. Logically, this should mean that there is a special obligation when considering property tax reform to ensure that the results are progressive, not regressive.

In this regard, the current Metro Toronto proposal fails miserably. This proposal will simply perpetuate an unfair system which sees tenants' taxes at more than three and one half

times the rate of single-family home owners, despite the fact that tenants have much lower incomes, on average.

On introduction of Bill 94, the Minister of Municipal Affairs—I want to apologize. In the documents we distributed, we refer to the minister as not being here and clearly he is here.

**Ms Poole:** But not answering any questions.

Interjections.

**The Acting Chair:** Order.

**Ms Geneen:** The minister stated: "It's fair to say that the current tax system in Metro Toronto is unfair and that the proposed tax system only in a small way alleviates some of the unfairness."

The first part of his statement is unarguable. In terms of its treatment of tenants and of low-income Ontarians in general, the vast majority of whom are tenants, the property tax system for the whole province is unfair. Metro Toronto is merely the most extreme example. Whereas tenants in many other areas pay property tax rates 50% to 100% higher than those of home owners, in Metro the difference averages 263%.

However, the suggestion that Bill 94 will add even a small measure of additional fairness clearly does not apply to tenants. The legislation will enable Metro to enact a scheme which will tax single-family homes and condominiums at 2.2% of 1988 values, small apartments at 2.7%, commercial properties and retail stores at 4.3%, industrial property at 6% and multi-unit apartment buildings at 8%.

In other words, the poor immigrant family renting an apartment in St Jamestown will be paying a tax rate 86% higher than the Royal Bank for its golden tower and 263% higher than a wealthy family with a Forest Hill mansion or a well-paid professional with a luxury waterfront condo. So much for alleviating unfairness.

#### 2020

When Metro council passed the MVA resolution, it also unanimously passed a companion motion which has been conveniently ignored by the government in the Bill 94 process. The motion stated that "the provincial government be requested to redress the current assessment that perpetuates inequities between home owners and tenants." The government is apparently proposing no action on this front.

All three parties in the Legislature, the governing New Democratic Party most vehement among them, have condemned regressive taxation policies in the past. Yet in terms of the dollar impact on lower-income Ontarians, this property tax inequity is far more regressive than, say, past increases in sales taxes which the various parties have so criticized.

The solution, though, is not to merely preserve the status quo, which is equally unfair to tenants. Those who would use the tenant issue to try to help kill MVA, with no real intention of reforming the system to treat all homes equally, are as cynical as the minister in his attempt to pay lip service to equity but allow Metro to implement a scheme which will institutionalize inequity and prevent any change for at least five years to come.

It is not only landlords and tenants who feel that both the status quo and the Bill 94 alternative are unfair. It's also the

considered opinion of the very group the government itself asked to review issues of equity in the tax system.

As many members are aware, draft copies of the report of the Fair Tax Commission's working group on property taxation have been circulating for some time. The final version of the report, which is now undergoing translation, unequivocally calls for equal tax treatment of all forms of homes.

The report states:

"All residential properties should receive the same treatment for assessment purposes, regardless of their ownership and occupancy status. The assessment system should not favour one property type over another or one type of property tenure over another."

Why, then, is the government determined to proceed full speed ahead with Bill 94 without making a commitment to the essential reforms advocated in the Metro council resolution and the Fair Tax Commission report? Does it simply want to be able to say in a few weeks when the Fair Tax report is published, "Sorry, our hands are tied for the next five years"? Is it really afraid to commit to fairness in taxation by phasing out differences in residential taxation over 10 years, as even a Conservative government in Manitoba was willing to do in 1991?

Property taxes are the single largest expense any apartment building faces. Many tenants in Metro pay 25% of their monthly rent for property tax, though few realize it. If this government, if any of the parties represented on the committee, are concerned about the plight of low-income residents in Ontario or the affordability of rental housing, then there can be no excuse not to support the simple principle that all homes should be taxed equally, and if that principle is endorsed, then Bill 94 cannot proceed in its current form, nor can the status quo be preserved. A commitment to fairness in property taxation requires new legislation to eliminate the arbitrary and unfair distinctions between residential classes, not just for Metro but for all of Ontario.

The rent control equation: The second concern landlords have with Bill 94 results from the proposed interaction with the Rent Control Act, 1992. Section 113 of the Rent Control Act provides that where a reassessment occurs, resulting in a tax decrease, the rent registrar shall adjust the legal maximum rent in the unit to reflect the reduction in costs. But where there is a tax increase, no automatic pass-through occurs. The landlord must apply to rent control for an extraordinary cost increase, a process that is cumbersome, expensive and risky to the landlord, and entails at least a one-year delay during which time the landlord must bear the new cost without assistance.

As well, the owner must also hope that there are no other cost factors that year that have used up the 3% maximum allowance above the annual guideline allowed for extraordinary increases and capital. Since there is no way to defer an extraordinary cost claim to another year, even though this was promised by Dave Cooke when Bill 121 was first introduced, recovery for the tax increase will be lost for ever if the 3% allowance was already committed.

Consider the case of a landlord who made a necessary garage repair in 1990 which should have generated a 10% rent increase. The Bill 4 freeze prevented her from collecting any of the money. Now that the Rent Control Act is in place,

she can possibly receive 3% above the guideline next year and in 1994, though when interest costs are factored in, the majority of the investment will be unrecognized.

However, a new dilemma would now be created by the MVA. If the taxes on her building go down, the rent will automatically be reduced. She will have no right to offset this decrease against her other costs, even though they were not recognized because of the cap. But if her taxes go up, she will have to apply for an extraordinary increase—no automatic pass-through for landlords—and because her 3%-above-guideline allowance has already been committed as a result of expenditures made long before either Bill 94 or Bill 121 was envisioned, she will be unable to recover a single penny for her higher taxes. That apparently is the government's idea of fairness.

Moreover, there is great uncertainty about how buildings will be impacted. Are changes in market value to be assessed on a building or a unit basis? Do equal-sized units which pay different rents receive the same increase—a flat dollar amount per unit—or different amounts, such as a percentage of rent? How many of the 132,000 or more units facing increases will be able to meet the threshold for an extraordinary application, given that the increase is spread over two years? We simply do not have answers on these types of questions at the moment.

Of course, it probably doesn't matter in one sense: The government has indicated that it intends to proceed with Bill 94 regardless of what anyone says before this committee. But it would be at least nice to know what we are up against, and it would be even nicer to think that the members of the Legislature would want to see the bill made as fair as possible for everyone.

Regardless of the instructions from Minister Cooke, I hope that the members of this committee will be willing to recommend that Bill 94 be dropped and that new legislation be developed to enshrine equity in property taxation for all Ontarians. The concepts of equal taxation for tenants and home owners and fairness in administration for landlords as well as tenants should not be foreign to our province.

**Mr Owens:** I don't like to think that anyone making a presentation before any committee in this place comes forward without a sense of purpose, and it's my view that we're listening to what has been said by your group and any other group that has presented here today and yesterday and will present in the future.

I think there's no disagreement from anybody we've heard today that the property tax assessment is completely wacko. There's no disagreement on any side of this committee or from any of the presentations.

The question I have is that in terms of the item under discussion today, our government has made strong commitments, whether it's the Fair Tax Commission, the education finance working group—these are all issues that this government is looking at to address the long-term solution that's out there.

In terms of some of your comments with respect to the rent control and Bill 4 that preceded rent control, I have to say I'm at variance in terms of some of your calculations. First of all, the rate of inflation now is somewhere around 1.7%, so the 3% capital allowance that's there more than



covers the rate of inflation. In terms of the automatic decrease under the market value assessment, unless the unit is at the maximum allowable rent, there will be no automatic decrease put into place.

2030

In terms of the commitment of this government to fairness, we've demonstrated that with the ongoing property tax commission. We had a sort of preview of the report here tonight. You folks have obviously seen a draft copy of recommendations. The issue with respect to education financing is not something that has been addressed by Metro council or any other municipality, and we've gone forward to start looking at the inequities around the financing of the educational system. Those are the kinds of things we're interested in.

We hear what you're saying and we've heard what each presenter has said, and it's our view that in some senses you're correct about the tax assessment. There are problems out there, and we're going to move forward and address those issues.

**Ms Geneen:** Can I respond to that? As a general point, as a landlord and as a citizen in the province, there's very little for me to feel there's been any sense of fairness. As a group who has been handed Bill 121 and Bill 4 and various other things, including probably Bill 94, I can't see why I would have any expectation of fairness.

The issue of listening: It's not just a question of hearing. What we were addressing is the fact that there seems to be no philosophical predisposition to making any kind of basic change here. The fact that we're all sitting in these rooms listening is really immaterial.

As a third point, perhaps you could do a little work on Bill 121. The rate of inflation has absolutely nothing to do with the 3%. We're talking about major capital repairs, huge concrete restoration projects etc, etc. Even in terms of operating costs, that has nothing to do with the rate of inflation; it's the issues of particular cost components such as property taxes.

**Ms Poole:** Thank you for your presentation tonight. It's quite refreshing to see tenants and landlords working together and perhaps undoing some of the damage we saw during Bill 4 and Bill 121. I'm glad to see you working together on this issue.

You make the statement in your brief, about Metro's motion, "that the provincial government be requested to redress the current assessment that perpetuates inequities between home owners and tenants." Then you follow it up by saying, "The government is apparently proposing no action on this front."

I would make an assumption from your comment—please correct me if I am wrong—that you understand that assessment is a provincial function, a provincial responsibility, and that the only way Metro's request can be redressed is through legislation by the Minister of Revenue to amend section 63 of the Assessment Act, which provides for the different classes. Am I right in assuming that you are aware this is a provincial responsibility?

**Ms Geneen:** Yes.

**Ms Poole:** I wish the minister shared that understanding. I find it quite appalling that the minister responsible for carriage

of this legislation does not understand that the province has that responsibility.

The question I have for you relates to the Fair Tax Commission report. I believe Fair Rental is one of the participants on the working group?

**Mr Dewan:** Not on that working group, no.

**Ms Poole:** But you are a participant on the Fair Tax Commission?

**Mr Dewan:** I was a participant on one of the other working groups, which has finished its business. We did not have a representative. We requested an opportunity for both landlords and tenants to have some representation on that committee, and we were turned down.

**Ms Poole:** The request was denied.

**The Acting Chair:** Thank you. Mr Turnbull.

**Mr Turnbull:** Flowing from the questions from Mr Owens, who obviously doesn't understand what the 3% is for—he demonstrated that—I did a few numbers, just hypothetically. Do these sound right? Hypothetically, if an apartment costs \$750 a month, in the course of a year that would be \$9,000 in rent. Quite typically, apartments are paying three months' rent to taxes; in other words, that would be \$2,250 a year. If they got a 10% raise in the taxes, that would be \$225 or 2.5% increase in their overall rent, which of course you would have the right to pass through, provided you hadn't used the 3% for anything else by way of repairs. Does that sound right?

**Mr Dewan:** It sounds reasonable. I think the Ministry of Housing has indicated the average it expects is something around a 1.5% increase, but I've never seen any numbers; we're simply going on their word. We'd have to get the whole printout.

**Mr Turnbull:** We all know the old story of what the average person in this world is.

Okay. That equates to an \$18.75 per month rise in rent as a result of that. This is something which, quite obviously, the government has an opportunity to rectify right here and now, but it is absolutely refusing to. Is there any way you could address this question of fairness? What do you think of the unit assessment system as a proposal to address the whole question of assessment?

**Mr Dewan:** In terms of the unit assessment discussion in the Fair Tax Commission report, I read it very briefly yesterday and I don't think Florence has seen it at all, so I don't think we're really in a position, as an association, to comment on it. But there are a range of alternatives that we think should be examined. Going ahead and locking us into a situation where nothing can be done for the next five years isn't going to do it.

We're not here to suggest a specific solution to the problem but simply to say the government should make a commitment, if it really believes the system is wacko, to quote Mr Owens, that there be a commitment to a fair policy that will treat home owners and tenants equally.

**Mr Turnbull:** The bottom line is that you want them to address this, that tenants ought to be taxed at the same rate as home owners.

**Mr Dewan:** Yes.

**The Acting Chair:** Thank you for your presentation. I seem to be in the chair every time you come, and it's always enjoyable.

#### FEDERATION OF ONTARIO COTTAGERS' ASSOCIATIONS

**The Acting Chair:** The next presentation will be the Federation of Ontario Cottagers' Associations. Good evening, sir. Would you introduce yourself for Hansard, and the position in your organization. You have been allocated 20 minutes by the committee. You've been here for a few minutes so you've seen the way we operate. I would just ask you to begin.

**Mr Barry Mitchell:** My name is Barry Mitchell. I'm the president of the Federation of Ontario Cottagers' Associations. I had hoped to have with me our executive director, Jerry Strickland, who has been very much involved in fighting MVA around cottage country over the past few years. Unfortunately, his car seems to have broken down and he won't be able to be with us, but I'll try to pass on to the committee some of the remarks he would make; we'll send them down and you can circulate them to the committee members.

In the few moments I have been waiting, it became clear to me that you've probably heard everything from everybody by now, one way or another. To some extent, I find myself in the odd position of feeling sorry for politicians. It must be dreadful to reflect on another week of this.

However, I would like to offer some perceptions based on the fact that cottagers have been fighting MVA for quite a few years now, and with some success. I think the experience of the people in Metro Toronto, when the initial proposals were made on market value assessment, was very similar to the kinds of experiences we have had in attempting to get straight answers on MVA: its impacts, the implications MVA would have. The Federation of Ontario Cottagers represents about 500 associations and about a quarter of a million cottages; that is about a million cottagers. That's a lot of people. But I think one of the false impressions that's often left about cottagers is the fact that they are alleged to be wealthy, and that's not the case.

#### 2040

Cottagers choose to spend their recreation and vacation dollars in Ontario, and they are represented in all income groups in the province. The experience we have had makes us very unhappy with the compromise that the bill currently before you represents. It seems to us, as people have said many times this evening, that this is an opportunity to do the thing right.

Our concern is that passing yet another negotiated compromise will simply harden the position of many of the people in the ministry and other places who seem to want to have MVA continually introduced around the province, with implications and impacts that no one seems to be able to describe for us.

The point I wanted to make on behalf of our association is that we are unhappy with MVA generally. We believe the property taxes, as many people have indicated, are unfair. They do not measure the ability to pay. We think the tax reforms suggested at this stage of the Fair Tax Commission are likely important and should be done as soon as possible,

but to move now in the way this bill suggests, in this rather unseemly type of compromise, is simply not good enough and is likely to prevent the reform we all want to see.

**Ms Poole:** Thank you very much for your presentation. I know you've been at this for a number of years and presented to a number of committees. I hope you haven't lost all sense of purpose that one day somebody will listen to you.

I was interested in your comments about cottagers. One of the concerns that people in my riding have expressed to me is that they pay very hefty education taxes in Metro Toronto, and they also pay it in their cottage properties, even though they don't get an opportunity to use those educational services. In fact, during the strike in the fall of 1987—I remember it well because I'd just been elected as a member—one of the outrageous things was that people in the city of Toronto who were subject to that strike wanted to send their children to school in the areas where they paid cottage property taxes and they were denied that by the local municipality; they were refused.

The previous presentation we had from Fair Rental talked about the Fair Tax Commission report. They asked the question, why is the government proceeding with this before getting the results of the Fair Tax Commission report? They say, "Does it simply want to be able to say in a few weeks when the fair tax report is published, 'Sorry our hands are tied for the next five years'?"

Do you feel that if the government does not wait for this report, if it barrels ahead with this market value assessment plan, it is going to impede the possibility of getting a response and an action out of the Fair Tax Commission recommendations over the coming years?

**Mr Mitchell:** That's certainly our suspicion and our fear. It baffles us, because we thought this government was intent on reviewing and reforming the tax system. It appears to us that those intentions, if sincere, are now going to be blocked by their own actions.

That certainly does disturb us, because it's apparent to everyone that tax systems are relatively inflexible and difficult to change. They raise a lot of emotion, they're hard for everyone to assess. Frankly, you cannot mobilize the general public for discussions on taxes in a detailed, technical way very often, and I think this next year might just be the opportunity to do that. Certainly people are mobilized, they're interested; they realize there are flaws in the current system. If the Fair Tax Commission report is acted upon and becomes the basis for discussions, I think there could be a very fruitful result, and it would be in the interests of all Ontarians if that were the case.

**Ms Poole:** Thank you for that response.

**Mr Turnbull:** Thank you for your presentation. I wonder if you could perhaps comment on the experience of what happened in the Muskokas after they brought in market value assessment.

**Mr Mitchell:** As Mrs Poole has suggested, there is an initial problem with property taxes that we have been concerned about for quite some time: the fact that Ontario relies upon property taxes to the degree it does; the fact that ability to pay is not measured by them. But when it's compounded by MVA, as it was in Muskoka, when cottagers were suddenly



asked to pay increases of 100%, 200%, 400% and more, it certainly did cause a great deal of anxiety and real impact on individuals and families.

One of the things we have noted with interest is that when the initial proposals were quickly proven to be outrageous and unacceptable, people immediately began discussing various basing arrangements. This was never the case in cottage country. People paid huge increases; they had no choice because they were unable to mobilize people in the same way that the people in Metro were. So I think the passage of this compromise would be just another example of the inequities in the Toronto area.

**Mr Turnbull:** In fact, I believe that in the case of the Muskokas, when a whole bunch of the cottagers managed to get themselves inserted on to municipal councils up there to try and block the four-year reassessment, the government of the day then passed legislation to force the Muskokas to do a four-year update.

**Mr Mitchell:** Yes, I believe that's the case.

**Mr Turnbull:** So by passing this legislation now and suggesting, "Well, problems have gone away for five years," that's not necessarily the case.

**Mr Mitchell:** No, I think we'd be in for a series of reassessments over the next few years.

**Mr Turnbull:** I once heard it described as the salami method, and that is, you can't break a salami in the middle, but when you get a sharp knife and just slice away a little bit at a time, you still get to the same point. I guess the bottom line of all you've said is that we really should be waiting until the Fair Tax Commission report is out and we have a chance to study it, instead of this unseemly haste that the government has to get it out of the way one week before the commission is supposed to report.

**Mr Mitchell:** Yes, that's right.

**Mr Wiseman:** I'd like to raise an issue with you that really hasn't been discussed a whole lot, and it has to do with jurisdictions. I don't live in Metropolitan Toronto. I live in an area that has market value assessment and has had for some time. As a matter of fact, it was the community that was studied by the Fair Tax Commission.

I can tell you that my local councillors and regional councillors are very jealous of their position in terms of being elected officials and having autonomy to make decisions and are really quite defensive of any kind of involvement of the provincial government in any of the planning, taxation or any of these issues.

We had a brief a little earlier from some people who mentioned education taxes, and I raised the issue with them about jurisdictions and the trustees. I know my trustees would be really not too keen to hear about this jurisdictional battle between the provincial government and the regional governments. The Association of Municipalities of Ontario almost seems to have set itself up as a second provincial government in terms of its desire to criticize where the provincial government may have crossed these jurisdictional boundaries.

In terms of this stuff that we're looking at, this is Metro's plan. I mean, this is Metro's and we are called upon to pass it. Now you're coming here and you're saying to us, "Be big brother or be daddy and tell the little children down there at

Metro council that they don't know what they're doing." Would you care to comment on what kind of jurisdictional battle you think that might create?

**Mr Mitchell:** I'm speaking now not so much as a representative of the federation, but I suppose I always assumed that the province had responsibilities for the welfare of the people in the province. When it becomes clear that one municipality or another is attempting to do something which does not appear to it to be consistent with good sense or good practice, then it is the responsibility of the province to take action.

That, of course, would vary with the issues, and there'll always be disputes between municipalities and the province when it's appropriate to intervene, but I think intervention is inevitable and often desirable. I think this is one case where it's desirable.

**Mr Wiseman:** What would you say then in terms of the setting of the precedents? We live in a democratic society. If we're going to turn around and second-guess the municipal councillors—and I can just imagine the minister sort of chortling now because this has been an issue in my riding on a number of occasions—what happens to the municipal election process and the accountability of regionally elected officials in the case of the municipality?

Where does their accountability to their electorate come in if they can, for example, in the case of strikes, look to the provincial government to pass legislation? Where does it come in that they have to act in an accountable way? Then where is the responsibility for the electorate to turn around and kick these people out if you don't agree with them?

2050

**Mr Mitchell:** Bear in mind what we're asking for is a reform of the current tax system. That's a responsibility that rests with the provincial government. It will always be the case that some municipalities are going to be caught at the moment when these reforms are going forward. This appears to be one of those moments.

I quite understand Mr Owens's concern about his own electorate. There are real problems in and around Metro, and inequalities and inequities, we're not denying that, but we think the fix, if you like, or the repair of these inequities should be one that's for the long term and should be done carefully, with some consideration. We fear that's not the case if this bill goes through.

**Mr Wiseman:** I still come back to this question of accountability and having to negotiate and to deal with locally elected officials. For example, one of the things that has come to me in terms of this whole issue is that it has not always been the case that the province has had this assessment responsibility. The province took it over, I believe, when Darcy McKeough was the minister back in 1969 and they were going to do market value assessment or they were going to restructure the assessment system then, and it's just sort of languished out there until it was resurrected in 1988 and has descended on us in this form.

Now we've got the Fair Tax Commission that is out there, but at the same time we also have before us this proposal by a duly elected body of a council. It's only the anomaly of history that has made it necessary to comment on it at all. That's the

dilemma that I feel, that I face, in terms of where it is that my responsibility lies in my relationship with other elected officials, the trustees from both school boards and from my local and regional and metropolitan government. I mean, I'm not elected in Metropolitan Toronto; they are. They made this decision.

**Mr Grandmaître:** On a point of order, Mr Chair: Mr Wiseman has repeated this on a number of occasions, that this is a Metro baby. This is not a Metro baby, Mr Chair. Metro is asking for enabling legislation and this is—

**The Acting Chair:** Thank you, Mr Grandmaître. That's not a point of order.

**Mr Wiseman:** That's the dilemma.

**Mr Mitchell:** I don't see it as a dilemma. I think provincial politicians take their responsibility and Metro will take its responsibilities, and the electors will decide who they punish and who they favour.

**Mr Wiseman:** I think that's where the focus of the debate should be. I agree with you on that one.

**The Acting Chair:** Thank you, sir, for appearing before us today.

#### BUSINESS SURVIVORS ASSOCIATION

**The Acting Chair:** The next presentation will be from the Business Survivors Association. Good evening, gentlemen. The committee has allocated 20 minutes for your presentation. If you would like to introduce yourselves and the positions within your organization for the purposes of our Hansard recording, then you may begin.

**Mr Laurence Cazaly:** Thank you very much, Mr Chairman, members of the committee. I congratulate you and thank you for your patience. Nobody's asleep yet. I hope you won't do it in the next 20 minutes.

My name is Laurence Cazaly and my wife, Millie Wallace Cazaly, was the founder of the Business Survivors Association. She is travelling out of the country at the moment. She really wanted to be here but she couldn't get back in time, so I'm standing in for her. I have beside me Mr David Philips, who is also a founding member of the association. He is one of the owners of Mills and Hadwin, a substantial car dealership in north Toronto, and one of the reasons why he joins us is he feels he has a fair amount at stake here. He's been in business in Toronto for something like—

**Mr David Philips:** Seventy years.

**Mr Cazaly:** —60 or 70 years, or the company has anyway. He personally doesn't look that old.

**Ms Poole:** What's your secret of aging so well?

**Mr Philips:** Relax.

**Mr Cazaly:** Ladies and gentlemen, what I wish to say is this. The inept progress of the proposed Metro Toronto municipal tax reform is half comical and half tragically serious. Both the comical and the serious parts of this story suggest that the provincial government should amend Bill 94 to delete its contents entirely, to permit Metro council to do nothing until it has come to its senses.

Metro's advertisement in yesterday's papers finally admits what everybody already knew: market value assessment has got nothing to do with the value of your property. It's a

formula. It's a civil servant's subjective opinion couched in terms to convey a false sense of accuracy and fitness.

So far, so bad. Then the next slip from reality was to choose 1988. Not only was 1988 a period when values were very high, we've all heard that before, but I know from personal experience that my own house went up in value by over 50% between February and November. You're looking at a lucky man; I sold mine in November, not in February.

The question then is, is the assessment in February 1988, July 1988 or November 1988, or, depending on what mood the assessor happens to be in, maybe he would pick one month one week and a different one the next. The fact of the matter is, actually, the variations in assessment can well be much greater than the variations that are being suggested for the actual tax variations.

Then, having started off on the wrong foot, some of the Metro councillors made a classic political mistake of trying to sell the idea by promising some money back to their supporters, and then they made the second classic mistake of assuming that they could suck the extra money out of the city business community. The federal government made mistakes like that about seven or eight years ago when it changed the federal budget and managed to get the tax decreases passed but then failed to get the tax increases passed because everybody likes to get money back, nobody likes to pay any more. You'd think that people would learn from experience and not do things like that.

Then, the next thing that happened was that when we started to find out what the new taxes were going to look like, some of the small businesses hardly making ends meet were being stuck with increases of over 150%. That looked kind of odd, so if you checked with city hall to find out whether those numbers were right, they said no, they weren't, they were actually 250%. They made a mistake the first time around and they jacked them up even further.

Again, I happen to know from personal experience of a small commercial building and a rather nice house, which have been assessed in the past at the same amount and are assessed now at the same amount and up until this year the taxes have been the same amount. The proposal under the new valuation was that the house would go up by something like 40%, which didn't look too bad; the commercial property, however, was going up by 250%, which is utterly ridiculous. So then I thought maybe at some point somebody around here decided to have a different mill rate for commercial than they did for residential. No. At least the person I asked said that wasn't the case, they were all the same.

Then I figured, after I'd made a few inquiries, there was a horrible truth here: no one had any idea why this happened at all. When we suggested that this mill rate had been adjusted, we were told it wasn't the case. These enormous increases were apparently hatched out by persons who are unknown. I can't find anybody who can tell me who the man is who did it. At this point, some people started to say: "This is madness. We've got to have a tax revolt," and my association was born.

#### 2100

The politicians, having realized that their servants had made a hopeless mess of things, could have abandoned the matter and could have gone on to something better, but now



with reputations at stake, they've come up with a marvellous new game called Snakes and Ladders Assessment.

Rule 1 is, if you find yourself at a ladder and the assessor has guessed your property is less, you don't go all the way to the top; you climb halfway up the ladder.

Rule 2 is, if you find yourself at a snake and the assessor guessed your property went down, you don't slip halfway down the snake; you go halfway up the ladder. You actually slip down only 10% from your present position on the board.

Rule 3 is to maintain the political concept that you mustn't be nicer to businesses than you are to people. If the business gets to a ladder, it doesn't climb up as far, but it slips farther down the snake.

Rule 4 is that if people are foolish enough to buy a house on a snake, they slip all the way to the bottom. But this may be modified. I'm not quite sure what the state of the art is there.

Rule 5 is, rule 4 is believed not to apply to business, but I'm not quite sure whether that's true.

Rule 6 is that rule 5 may not be true.

Rule 7 is that the game self-destructs in 1997. I think five years will be quite long enough to play a funny game like that.

Bill 94, apparently, is a bill to approve this new game.

Now let's look at the tragic side of this fiasco, if you will, please. There's a need right now for stability and the status quo. Toronto business is in a fragile state. You've heard it thousands of times. I have an appendix at the back just to show you what two little streets look like right now.

When business is down to its last resources—I've almost gone broke four or five times in my life and I've learned how to recover—what you do is, you don't make any changes at all. It doesn't matter whether the business is a large corporation or a mom-and-pop store; in a crisis the word is, "No change, no new expenses, no new equipment, no new staff, no new ideas; just total dedication to making and selling what you do best." You don't have time for anything else. I shouldn't be here tonight. I have a business to run. You shouldn't be here either. You should be getting on with governing the province.

**Mr Mills:** You've got that right.

**Mr Cazaly:** Right now all this discussion actually is, in fact, an attack on our stability. Metro has been living for 40 years with a system. It may be bad and maybe it should be changed, but they've chosen the precise moment to change it when nobody's got any time to waste debating the issue and nobody has the resources to have his business adversely affected.

This has resulted in enormous fear and anger and uncertainty. You can always tell when government isn't doing something well, because you get an enormous reaction like this. It doesn't matter whether you're right or wrong; people shouldn't feel this way.

One of the problems is that if you were a loser in the tax game, not only would your taxes go up, your property will be enormously devalued or made unsaleable. If you were a winner, you might find some sucker to buy your building before he discovered in the next round of assessment that he'd been moved over to the losers' list.

This thing gets redone every once in a while. You never know what you've invested in. Business thrives on stability. Before they invest, investors need to know the rules. Metro, in its thrashing around, has created an environment of uncertainty, destroying investor confidence and thus the very tax base that it needs to use to pay its bills.

We, the Business Survivors Association, have got one simple goal: We seek a moratorium on all tax base rule changes until the Metro area recovers some of its economic vitality. News looks like the United States is beginning to pick up. If they start picking up, then we get dragged in a piece. Maybe a year from now we'll have a little manoeuvring room. Two years from now, let's hope we will all have some manoeuvring room. Right now we don't have time. Like the public said about the constitutional debate, "Recovery first, political change later."

In addition, while we have this waiting period, the government can do a bit more thinking and digest some of the lessons learned, because there are obviously some very good ideas being thrown around. Then maybe a less divisive method of assessment can be realized. Mucking about with this silly concept just has to stop.

So how can my association achieve its goal? Well, Metro council could have achieved it for us by calling for a moratorium itself. They failed to do that. There were too many reputations chasing too many promises.

The provincial government is the next line of defence. Now you're in the hot seat. It would be a good solution to amend Bill 94 so that all its content is removed and it permits nothing; that would be a good solution to this problem.

In politics, as in life, there are moments when buying a little time can produce a benefit out of all proportion to the time lost. In this case, to require Metro's tax base formula to run from 1952 to 1993 or 1994 isn't going to look much different in the course of history from having it run from 1952 to 1992. In contrast, the destruction of our neighbourhoods by political meddling is likely to be irreversible. There's some serious damage going on out there.

As the last resort, we, the people, can achieve our goal. We can withhold our taxes until the spenders of those taxes start looking like responsible government worthy of trust. There was a time when people trusted their governments to behave sensibly. Those times must come again if we are to prosper. Nothing personal, gentlemen, but I'm nervous and he's frightened.

We do not underestimate the work involved in organizing a tax revolt. To put in place an organized withholding of taxes to the limit permitted by the law requires in a metropolis massive lines of communication kept in constant repair. Fortunately, we have equally massive resources. We have the advantage of having at our disposal a large number of storefronts and numerous professional salesmen to see that instructions are spread throughout the community. Realtors, for example, are on our streets daily and they can be motivated to distribute information to the storefronts, because of the dramatic loss of commissions as sales drop due to political uncertainties.

We have one thing going for us which can't be underestimated. We don't need to sell the idea that MVA and its bastard offspring must be destroyed. We have observed that there

are only two classes of people that you see around: There are those who hate MVA and there are those who don't know anything about it. There seems to be no one whom we can find, except for a few civil servants and the politicians who invented it, who actually approve of it. We have already got calls from all over the province, from some people still fighting and others from people who've lost out and are now struggling to get MVA reversed. Unlike most political movements, we have no serious opposition.

Finally, we are survivors. We are not seeking popularity. We are defending our property and our businesses. We absolutely must have a stable environment in which to plan our future. We can't afford to lose. Unlike the politicians we are trying to educate, there are so many of us.

We've got a constructive proposal for you. We're not destroyers by nature. We are the foundation of our neighbourhoods. We want to live in a place which is prosperous and delightful and which can afford the things that make a metropolis sing. What's gone wrong in the last four years?

First, no one remembered that children use most of the municipal tax dollars. Children use all of the schools, much of the parks, the libraries and the arenas; they have a share of the roads and transportation; they share the police, fire and welfare, but children have no money. So when you start talking about fairness, the people who use most of the service can't pay for any of it at all. This is one of the reasons why it's not obvious what you should do.

Businesses, on the other hand, use less or none of these services. They certainly don't use schools and they don't use much in the way of parks or libraries. The idea that business should pay for raising our children may have merit, but the word "fairness" shouldn't be used in this context.

So one place to start is to decide, first, who should pay for the children. Looked at in that light, it begins to sound like general revenue or an income tax. In other words, it shouldn't be the municipalities at all that put up a lot of this money. It should come from the central source. I think all Canadians, in fact, want our kids educated and want them to have parks and things like that.

Secondly, no one remembered that the value of property has no relationship to the ability to pay. Often the reverse is true. Many businesses would like to purchase cheaper property, but if you're a retailer you must open your store where the customers are, whatever the price. Furthermore, a widow, for example, gets no benefit when her family home finds itself in a newly fashionable neighbourhood. The idea of having to sell one's home because the people next door cause one's taxes to rise is surely socially unacceptable.

Thirdly, our leaders forgot that governments know little about markets. Every government in Canada that bought into the private sector finished up with egg on its face, including the government of Ontario under the Conservatives, unfortunately. They should have known better than that. They tend to buy high, lose money and then sell low. The government of Alberta's just done the same thing. If you do something badly, why in hell don't you keep away from it?

Fourthly, and above all, property represents most people's life savings and the major part of business investment. Government must absolutely not muck about with its value.

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From this, we suggest the following:

(1) Look at non-property assessment for much of the tax base.

(2) To the extent that property is assessed, make the formula for homes a predictable one. Unit measurement is one system often discussed.

(3) For commercial properties, hook on to something that already follows the market. A fixed percentage of rent, for example, is sensitive to economic change but in a way that requires no judgement by government officials. The landlords and tenants fight among themselves about how much a business can afford to pay. They have a way of sorting that out, and then you just hook on to it and say, "Whatever he gets, I want 15% of it." It's a nice, simple formula and I'm sure it would work.

What do we want this committee to do? Metro has got itself into a silly mess. What it should do now is what governments used to do in the halcyon days of Ontario 25 years ago: nothing. Lay quiet for a while and then come up with something really good.

To cause Metro to do this, Bill 94 has to be amended to say substantially nothing, so as to permit Metro to do substantially nothing. Why in the devil can't you stay still? I'm fighting for my life and you can't help me one little bit. What we want the committee to do is to decide the best way to draft an amendment that has this effect.

What's the alternative? There is no polite way to say this. The thrashing around at Metro, first with MVA and then with Snakes and Ladders Assessment, has put our livelihoods at risk. This we cannot tolerate. This is a most serious attack, not so much on our money as on our secure business environment. You keep changing the value of our property and we don't know what it is or how we can plan. We need and must have responsible politics. If representation doesn't do the trick, turning off the money supply will.

We have talent. We have enthusiasm. We have a single, simple purpose, and we are the people of Toronto, almost all of them. Our message to our followers is simple: If you follow our instructions and hold back your taxes when we tell you, we will bring about a secure system that protects your home from political devaluation. This will be Community Project '93. Everywhere this has been tried, it's worked. Nobody's tried it on a place this size yet. But wouldn't it be simpler to amend Bill 94?

**The Acting Chair:** Thank you. I can permit one quick question, not a speech, from each caucus.

**Mr Cazaly:** Excuse me, Mr Philips, did you want to address the committee?

**Mr Philips:** I was just going to have a statement in regard to our business as it stands. We opened our doors in 1922. We survived the Great Depression, the Second World War, plus Chrysler's financial problems in 1979. We support local schools, churches, hockey, baseball, community events and services. We employ some 60 good people. We are like family. Due to the economic conditions and to avoid major layoffs, no one's received a wage increase in approximately two years.



We're civilized businessmen trying to make ends meet. We have had the employer's health tax thrown at us, GST, now the MVA. It's going to be capped, so they say, 25% over three years. What does that mean? Caps are made to be removed. There are no firm benchmarks in the future. If you were a landlord and you increased the rent on a tenant of yours by 25%, you'd have the government watchdogs all over you. Business has to know where it's going. You can't just turn around and change the rules in the midstream of a game, and the game is survival.

If we have to pull up our roots and leave the area, you won't receive any taxes from the vacant lot. You'll have some 60 people on an already overburdened unemployment line. It's not a great way to celebrate our 70th birthday.

MVA is the wrong tax at the wrong time. Business will always try to survive. Most business-oriented people are survivors. If council doesn't come up with some better type of solution, it's going to force the hands of businessmen in Toronto to cause a tax revolt. Let's try to avoid this. Let's have the provincial government prevent this. Let's come up with some new ideas that can solve everything. Let's get a study done on it. That's it. Thank you.

**Mr Turnbull:** Since I can only ask a very quick question, can you give me an idea of the people you know who are hanging on by their fingernails? Presumably, that's quite a lot of businesses. Of the people you know, do you think there'll be large numbers whom this will put over the edge?

**Mr Philips:** I strongly believe so, definitely. It would probably vacate most of Toronto.

**Mr Cazaly:** My wife is a real estate agent and therefore is used to going out on the streets and meeting people. I wish she could be here tonight, because she speaks from the heart and she understands these things on a person-to-person basis.

Obviously, there are some people going bankrupt because they don't know how to run a business well enough and these are hard times. That will happen, of course, but there are other people, one actually near you who's been in business for something like 50 years, and they've finally decided to give up. One day they just put a sign on their door which said "Gone." They were the competent people. They've been there for ages and ages. They're not doing very well right now—nobody is—but they needn't have gone. They just said: "You know, this threat is too much. I'm going to get out now. I'm not going to wait till next year till I've been sucked dry." It scared the hell out of them.

My wife owns a small commercial building. She can't rent half of it. She can't sell any of it. One of the reasons for this is that nobody is sure what the rules are going to be two or three years down the line. I gather that legally Metro can't bind any future council. There will be a future council at the end of next year, so whatever is decided now may not be the rules of the year after that.

Personally, actually because of what my wife has lost in real estate, I'm going to form a new business next year. I'm an inventor by profession and I'm going to start a new invention company. It won't be a very big one but it will be one. The possibility of my doing it in Toronto is almost remote. I don't want to live in a place where people are fighting all the bloody time.

I was here in the 1960s. I put all the little bits of marble on the Toronto city hall and I did most of the city hall square and other stuff like that. I and the people of my generation were doing the best things in the world in this town. It didn't matter what party we belonged to. It wasn't a matter of politics. It was just the enthusiasm that if you were really good, this is where you came and this is where you did it.

A lot of that's gone. If we can just do something to turn it around, you'd have done a bloody marvellous job. I don't care which party you're supporting; we can talk party politics later. Those sort of things are the fine-tuning of society, if you like, but right now there's a tremendous need for people to feel like Canadians, Ontarians and Torontonians, to be proud of that and to feel if they do something good then everybody is going to get rewarded.

The uncertainty that comes from all this stuff scares people away, and it's the uncertainty more than the little bits of money. Whether somebody gets \$400 here and somebody else pays \$1,000 there is the lesser part of the deal. It's the fact that you can't plan. You don't know what the rules are, and the rules are capable of being manipulated.

People are making mistakes, as I pointed out to you, and then correcting them and then adjusting them. Gradually, what Metro has been doing is sanding away all its original plans in the hope that it'll get to be so small that nobody will even notice it. Well, if they're not going to notice them, why don't you leave the bloody things where they are? It isn't going to make any difference to anybody anyway. Why do all this?

**The Acting Chair:** Thank you. We appreciate your presentation. Unfortunately, the time has expired.

**Mr Cazaly:** I'm sorry to have taken so much of your time.

**The Acting Chair:** Mr Mammoliti, your caucus will begin the next round of questions. Thank you very much for being here with us this evening.

**Mr Cazaly:** Thank you very much, Mr Chairman.

**Ms Poole:** Mr Chair, on a point of order: I believe each caucus was to have a question. I understand that time has run out but I would just like to say to our presenters that I thought it would have been impossible, after being at Queen's Park for 13 hours so far today, to be entertained by market value assessment, but they proved me wrong. You did entertain me.

**Mr Mammoliti:** Mr Chair, I could have asked my question in the time that she took here.

Interjections.

**The Acting Chair:** Order. Let's not start.

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#### ONTARIO PROPERTY TAX CONSULTANTS

**The Acting Chair:** Mr Keith Noble: Good evening, Mr Noble, if you would introduce yourself. The committee has allocated 10 minutes for your presentation.

**Mr Keith Noble:** Mr Chairman and committee members, thank you for allowing me to address your committee at this time. My name is Keith Noble and I am a resident of the city of Toronto. I make my living as a property tax consultant, and for the past 10 years I've been heavily involved in the

assessment appeal process, representing taxpayers before the Assessment Review Board and the Ontario Municipal Board.

I'm here tonight to direct the committee's attention to what I perceive to be a very serious problem associated with the implementation of the Metro MVA scheme. There appears to be a serious flaw in Metro's market value assessment scheme presently seeking provincial approval. Under the Metro scheme, all current inequities will be maintained and thousands of new inequities will be created, but more important is the fact that the taxpayers will lose the right to appeal the basis of their taxation.

One of the fundamental principles of the property tax system has been and is the right of taxpayers to appeal the basis, which is the assessment, on which their properties are taxed. In fact, the Assessment Act provides for a property owner to appeal his tax assessment every year if he so desires. In 1993, under the Metro MVA proposal, most taxpayers in Metro will lose the right, a right they now have under law, to effectively appeal the basis of their taxation.

Why is this so? In 1993, under the Metro scheme, all Metro Toronto properties will be reassessed on 1988 market values. Ordinarily, property taxes are based on the assessed value of a property times the mill rate. Under full market value, many properties would face huge tax increases. Therefore, Metro decided to address the potentially devastating impact of MVA by capping tax increases and decreases.

As a result of capping, 1993 taxes, which ordinarily would have been based on the new 1988 market values, will instead be determined by the 1992 taxes paid. The 1992 taxes paid are now going to be described as the 1992 base tax, so it will be 1992 taxes paid, plus or minus a certain percentage, to equal 1993 taxes. Thus, from 1993 until 1997, and possibly longer, the 1992 base tax will be the primary basis for taxation for most Metro properties, not the new market value assessments.

Here is the crux of the problem: 1992 base taxes and the old assessments they are based on will no longer be subject to appeal. If a taxpayer discovers that his 1992 base tax is too high compared to similar properties, he will remain too high at least until 1997, and most important, the taxpayer will be forced to pay more than his fair share of taxes without the possibility of altering the situation through the appeal process.

Taxpayers will still have the right to appeal their new 1988 market value assessments. However, as assessments will no longer be the primary basis of taxation, an appeal may be nothing more than an academic exercise, because even a successful appeal may not necessarily lead to a reduction in taxes.

For a quick example, if we consider a property that under market value would receive a 50% increase and on appeal is successful in having this increase reduced to a 30% increase, there will be no reduction in taxes because of the capping effect. He will be paying 1992 plus 5%. The exercise of the appeal will be strictly academic.

Under the Metro scheme, all current inequities will be securely locked in place with no remedy possible through the appeal process.

Consider the following example of what could and probably will occur under the Metro scheme. There are three similar houses, all located in the same block. In 1992, two of the

three paid \$2,500 in taxes; the third, which paid \$3,000, appears to have been inequitably assessed.

Under 1988 market value assessment, all three properties are to be assessed the same, with resulting taxes of \$4,000. However, in 1993, under the Metro scheme with caps on increases, taxes on the first two houses will increase from \$2,500 to \$2,625. That's calculated by the 1992 base tax plus 5%. The third house, which will increase from \$3,000 to \$3,150, using the same calculation, is anxious to appeal the apparent inequity between himself and his neighbours. Under the Metro scheme, he will be unable to do so. He will pay more than the other two houses for at least five years and possibly much longer. Incidentally, the same problem exists if all three properties received decreases instead of increases under MVA.

The situation becomes even more bizarre and unfair if one of the lower tax houses in the example is sold on or after January 1, 1993. If the Metro scheme is implemented, January 1, 1993, is a date not soon to be forgotten by vendors, purchasers and real estate agents. From this date on purchasers of single-family houses and duplexes will lose the protection of caps on increases and will pay full taxes based on 1988 market value assessments.

In our example, the taxes upon sale will rise from \$2,625 to \$4,000. The new home owner will be unable to successfully appeal the fact that he now pays much more than the other two houses because he is now taxed on the basis of 1988 market values, which are the same for all three properties. Thus, we have the obviously unfair situation of three similar properties all paying different taxes, one at \$2,625, another at \$4,000 and a third at \$3,150.

If the unfairness of the situation is to be remedied, the taxpayer who was inequitably taxed to begin with must be given the opportunity to appeal the basis of his 1993 taxation, which is the 1992 base tax. As for the new home owner, the only fair solution would be to remove the provision in the Metro scheme that forces full market value taxation at the point of sale.

The intention of the Ontario Legislature that equity in taxation should be maintained, especially within neighbourhoods, is clearly laid out in subsection 60(1) of the Assessment Act. There are thousands of properties in Metropolitan Toronto today whose 1992 base tax is inequitable compared to similar nearby properties. If the Metro MVA scheme is to be put in place, provision must be made for these taxpayers to have the right to appeal assessments from which the 1992 base taxes were derived as long as 1992 base taxes continue to form the basis for property taxation. To do less would seem to violate both the spirit and intent of the Legislature as expressed in the Assessment Act.

By effectively removing the fundamental right of taxpayers to appeal the basis of their taxation, thereby maintaining all current inequities, and by creating a whole new set of inequities with the point-of-sale provision, all in the name of so-called tax reform, Metro's market value assessment scheme, as it now stands, certainly seems, at least to this observer, to make a mockery out of the concept of fairness in taxation.

In summary, I approached Metro staff with my concerns about this issue over a year ago. The fact that Metro has said



nothing about this critical issue would make it appear rather obvious that it doesn't want to touch it in any way, shape or form.

In fact, as Mayor Trimmer said before this committee on Monday afternoon, appeals are not Metro's concern; they are a provincial responsibility. I recently raised this matter with senior policy staff in the municipal finance branch of the Ministry of Municipal Affairs and was told that the issue I am raising today was not considered during the drafting of Bill 94, the legislation currently before the House.

Mr Chairman, I urge you and your committee to take the steps necessary to ensure that the Legislature does not agree to any form of so-called tax reform in Metro Toronto without first protecting the rights of property taxpayers to appeal the basis for their taxation which, under the Metro scheme, would be the 1992 base tax. Those are my comments. Thank you once again for allowing me to address your committee.

**The Acting Chair:** Thank you very much, Mr Noble, for appearing before the committee today. Actually, we've used two minutes additional. The next presentation will be from John Dickinson.

**Ms Poole:** Is it possible for us to ask a representative from the Ministry of Revenue, at some stage over the next few days, to respond to the brief by Mr Noble? It appears that this would be quite a dramatic flaw in the legislation if indeed home owners would not be permitted to appeal.

**Mr Mills:** I had hoped to address that, but since there were no questions, I couldn't.

**The Acting Chair:** I'm certain that the ministry people will take note of that concern and respond to the committee at an appropriate time.

2130

JOHN DICKINSON

**The Acting Chair:** Good evening, sir. You've been allocated 10 minutes for your presentation to the committee. As you can imagine, the members always enjoy a few of those minutes for questions and answers. You may begin by introducing yourself.

**Mr John Dickinson:** First off, I'd like to thank you and the committee for allowing me this opportunity. My concern is possibly a little more personal than that of some of my predecessors in this place. I would like to comment on the experience I've had; I've supplied the secretary with details of the research work I have done.

I should tell you that within two weeks I turn 78. I'm losing my hair, my teeth and my hearing, my eyesight is failing and I've got Parkinson's. I can handle all of these afflictions, but market value gives me a little more trouble.

The city of Mississauga, in December 1985, voted to impose market value on its citizens. They acted in some haste, I think, and I question the quality of their judgement. It's caused a lot of concern and problems.

I bought my existing house in 1972, and I paid about \$57,000 for it. My taxes were seven-hundred-odd dollars. They're now up to \$4,300, which is a fair increase in that short amount of time.

Some 62.5% of my taxes go to fund education. In British Columbia, the government limits the contribution to 25%.

They also have enacted laws that prohibit school boards from increasing their budgets. I wonder why we don't consider doing similar things here. My problem, I have to confess, is not really with municipal taxes—they're at a reasonable level in Mississauga—but the school board; this is something else again. But this is an aside from my real concern.

I've spoken to a few people in Queen's Park over the years, trying to get a hearing on my problem, which is this: You're familiar with this card, I hope; this is the card used by assessors when they call on a home. If there's nobody in, they leave the card. One day, July 3, 1986, I had a Mrs Williams from the Peel-Halton board come to my front door. I was down in the basement, and at my age I move a little slowly. By the time I got to answer the door, she was preparing to get into her car, and meanwhile had left this card in my box.

So I called her back and asked her what she wanted. She said she was from the assessment department. "Well," I said, "I had my house assessed in 1984 by Mr Valentine." "Oh," she said, "we're not going to assess it. We want to reduce your assessment." "Oh, how much?" She said \$1,040. I said, "It will bring my assessment down from \$46,400 to \$45,360, right?" "Right." "Would you mind writing that on the back?" which she did. Her name was on the front of it, so there was no question about the quality of it and the accuracy of it.

A short while later I got a call from a group of concerned citizens—they believed that I was a tax expert—and they asked me to join their association. I disclaimed the expertise but agreed to help if I could, despite my physical limitations. Well, the first job I got to do was to go down to one of the hearings and get the names of the people who were appealing. It seems the assessment department wasn't able give us an extra copy of the people who were appealing. We found that strange.

In any event, I started to copy the names down, and a man came over to me and said, "What are you doing?" I said, "I'm copying these names down." "What for?" I said, "I'm with this tax group." "Oh? What's your name? Where do you live?" I told him. He tore the notice off the wall, pretty well threw it at me and said, "Here, take it."

Well, about three weeks to a month later, I got told by one of our committee members that my assessment was going up, and I tell you, it went up by \$9,288. So being careful with a buck—of course I'm retired; I have to watch my pennies—I got out to do a little complaining and work of my own.

Our tax group was trying to do the same, and we had a hearing set up. We got there. I brought my blue card as the only evidence I had; I was learning the process. I submitted this to the hearing chairman, who looked at it and gave it to a man from the OMB, a Mr Schultz. He looked at it. The third guy was representing the Peel assessment department. He looked at it, gave me a big smile, handed it to me and said, "Well, a mistake was made." I said, "What was the mistake?" He just walked away. So I've been trying to find out ever since what the mistake was.

I've complained to the mayor. She arranged a meeting, which was held in my home. The chief assessor came out with one of his associates. I showed him the card. "This happened before I came here. I know nothing about it." No expression such as he would find out and let me know. He said nothing. The meeting was inconclusive; we got no results. I

did ask a Mr Thomson, who was with him, to give me a list of comparables and a breakdown of the value on the card. I got a list of comparables, but that didn't do me much good because I have no authority to enter those homes, examine, question or anything else. Not only that; I don't think I'm competent to do so.

In any event, I did ask for the blue card. They ignored that. To this day I still don't know why my assessment was increased. I've tried and tried, but I don't seem to get anywhere. I think there's a serious concern here, a lack of—what would you say? Ethics? How I get this investigated, I don't know, but I've come here to tell you that I'm an unhappy citizen, and there are quite a few of us.

I attended another hearing with another one of my neighbours, who was using a comparable house across the street, \$124,000 on the assessment. His had been increased to \$140,000. The same man who questioned me about the signature—what's his name? It's my Parkinson's again; it's turning off my memory. In any event, he got up and said, "That house was reassessed the other day." The man with me was a tax consultant, and he went down to city hall. It had not been. This kind of nonsense has been going on quite a while. It certainly reflects very unfavourably on one or two people in the assessment department.

On this list I've given you, look at the two bottom items. One is a house at 1235 Ravine Drive. The other's on Jalna. They're within maybe 100 yards of each other. One lot is 115 by 135. The other's 125 by 270. The larger lot has the larger house, yet they're both paying the same taxes. One guy got an increase of \$458. The other got a reduction of \$2,252. One of my neighbours two doors from me got a \$6,600 reduction. There's a group of them on there, as you will note. The minus signs are all reductions. I've showed mine as \$1,040. It was then changed to \$138,000 from \$114,545.

I appealed. By this time, I had learned something. I went out and got a camera, started taking pictures, got a few maps. To anybody who's going to contest their assessment, this is the answer. I also have pictures with me. They work like a charm.

The man who was chairing the hearing that day couldn't argue with the fact—here are my maps—that I have the smallest lot in the neighbourhood, yet they were all assessed at \$75,000. Why was this? This is because the city council waited too late in the year. They acted with undue haste: They had to bring in a bunch of assessors who didn't know the area; they flooded Mississauga, and there are all kinds of variations in judgement.

That's about all I can say about the problem, except to reiterate that I am grateful for this opportunity. If there are any questions, I'd be glad to answer them as best I can, if there is anybody concerned with unethical assessments.

2140

**The Acting Chair:** We're in the unfortunate position again that I can only permit one question. The government caucus has first chance at this.

**Mr Mills:** The question we had is not pertinent to this witness.

**The Acting Chair:** Ms Poole, quickly.

**Ms Poole:** Mr Dickinson, I want to thank you for bringing this to our attention. I understand from your comments tonight that you really got the runaround from the assessment department—

**Mr Dickinson:** In spades.

**Ms Poole:** —you got the runaround from the Assessment Review Board, you got the runaround on appeal.

**Mr Dickinson:** At my second hearing I got a reduction of 10% in the land value, which is \$7,500. When I got the correction in the mail, they'd reduced it another \$500, so they exercise some authority without supervision. I expected it to be \$7,500, and it turned out to be \$8,000. They said, "We round out the figures."

**Ms Poole:** And all this runaround occurred in Mississauga, where you are assessed under market value assessment. So it really did not smooth out the system; it did not reduce inequities you had. It sounds like more problems than ever under that system.

**Mr Dickinson:** It increased my taxes, which I think was a matter of concern to me. I'm retired. I don't have an escalating income; it's fixed. What I'm learning is that about 40% of the houses that have sold in my general area are as a result of the people not being able to pay their taxes and having to move out. I think it's tragic. Many of them have lived there for 35, 40 and 50 years.

**Ms Poole:** So market value has been devastating for your area.

**Mr Dickinson:** Yes. There's a better way. I spent many years as a purchasing agent and I've never heard the system of a buyer and seller—just automatically having the property change hands. There has to be something better than that. Obviously, supply and demand governs the marketplace, and I think it should govern the real estate market. If you're going to use market value, use it on the basis of what the house sells for. We have a number of great big homes in my area, but they're all assessed lower than the house sold for. I've got the details here.

**The Acting Chair:** Thank you, Mr Dickinson. We appreciate your coming tonight and making this very valuable presentation to the committee.

For members' information, on your agenda you'll see that Sunwise Investment Ltd is the next scheduled presenter. I am told they have cancelled, but if they are in the room, would they indicate so? No.

BEN PARR

**The Acting Chair:** Then Mr Ben Parr is the next presenter.

**Mr Ben Parr:** My name is Ben Parr. I live in the city of Etobicoke. I'm sorry the member for the area is not present tonight. I come as a private citizen, but I have been twice president of Thorncrest Homes Association and I am also president of the Craigleith Community Association, which is in Grey county, where county council had the wisdom to defer the county market-wide reassessment, under the leadership of our reeve, who was due for a substantial tax decrease but who could see the unfairness of the situation. That's been put aside for at least two years.



We all have no objection to paying our fair share of taxes, but what is a fair tax? A fair tax is a tax that is constant, predictable, based on ability to pay and in some way related to services provided and services used. In 1973 Mr Robert Craig, an Ontario government assessment officer, stated that real estate taxes are inequitable and weighted against the home owner when they are based on an assessment of current market value. The proposal before us ignores all of the foregoing principles and concentrates solely on a perceived property value.

The test of equity fails in a volatile real estate market as there will be major shifts as prices go up or down.

We are told that if we do not like our assessments we can appeal, but on what grounds? I got a real lesson tonight from Mr Noble's presentation. On top of that, the assessors state that a valid appraisal or an actual sale of a property by a willing seller to a willing buyer is not a basis for revision. In addition, I really, truly, deeply resent legislation and procedures which place me and my government as adversaries, not to speak of the neighbourhood conflicts which will be created.

Phasing in may make it more acceptable, but is a dog more comfortable having its tail cut off an inch at a time? I don't think so.

To apply full market value assessment at time of sale will increase inequities as similar properties will be paying disparate taxes. If this provision is applied both to properties with increased and decreased taxation, there will be a further spreading of inequality not to mention the impact expected on the real estate market.

My request is that this proposal be defeated and that the status quo be retained until such time as the report of the Fair Taxation Commission is received and considered, following which we will expect legislation to be drafted to base property taxes on factors other than an imagined market value.

I thank you for this opportunity to express my views.

**The Acting Chair:** We have opportunities for questions.

**Mr Turnbull:** I'm pleased you're here. One of the many problems I have with this scheme is the fact, as we've heard, that people in Mississauga were actually intimidated when they appealed their assessment. This is maybe even more sinister. We have broken the historic relationship between assessment and the taxes you pay, so that if you're getting a 10% increase in your property taxes because of the capping, and you know that otherwise it would be, let me hypothetically say, a 100% increase—it may be 20, it may be 40, I don't know—to the extent that you can only appeal your 1988 assessment and you know that the most you can get is 10% for five years' increase, most people are going to conclude that it's not worth appealing. So there may be many people who will de facto accept market value through this backdoor method. This is one of my concerns, and I wonder if you can reflect on that.

**Mr Parr:** We are frightened of this. We did a quick study of the effect in Thorncrest Village where 65% of the properties will have a tax increase, some of them in excess of \$2,000. If you take 5% of \$2,000, it really isn't a serious amount, so our advice to our people is to appeal their assessment by all means. But we are afraid they are going to look at it and say, "Why do we want to go through this?" It's a

degrading experience. I've been to an assessment appeal court a couple of times and it's a degrading experience.

**Mr Turnbull:** Mr Dickinson's experience is a good example of that.

**Mr Parr:** I can relate to what happened to him.

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**Mr Turnbull:** The government would have you believe that it's protecting you against the point-of-sale clause, which it says it doesn't like, by asking Metro merely to pass a bylaw to put it in force. Since they already voted for the point-of-sale clause in 1988, 1989 and 1992, I hardly feel that asking them, for the fourth time, to pass that clause is any particular hurdle.

We have to burst this myth that the government is protecting you. The government is turning its back and doing a Pontius Pilate on this particular issue. What will be the effect if in your community you suddenly have a house which is sold and that person is paying substantially higher taxes? Are they not going to be awfully unhappy members of the community?

**Mr Parr:** I expect they would, and I expect they would have a valid basis of appeal.

**Mr Turnbull:** They won't, unfortunately.

**Mr Parr:** No, I'm afraid of that.

**Ms Poole:** Thank you very much for appearing before our committee today. You talked in your brief about the inequities that would be created if full market value assessment is applied to homes on the point of sale. I just wanted to let you know that I have put the government on notice that I will be proposing an amendment which would protect homes at the point of sale so that the protective cap is left on. What it will rely on is the members of the government making the decision about whether they are going to support this.

You've mentioned the inequities that would come about if the cap is removed at point of sale. Could you tell us how this is going to create inequities within your neighbourhood? For instance, if it goes to full market value in—it's Thorncrest Village you're in?

**Mr Parr:** Thorncrest Village, yes.

**Ms Poole:** If one property, say your neighbour's, goes to full market value and yours is on the capped provision, what difference would that make in taxes in your particular situation?

**Mr Parr:** In my own particular situation, my tax increase is fairly nominal. I think it's about a 27% increase that I'm looking at. It would mean a 22% difference house to house on that basis. Right away the person coming in is going to be thinking, "Why should I be paying more for a house that's comparable to my neighbour's?"

I think this is a dangerous situation. It could create a thing where I've heard people talking today of tax revolt, tax withholding. I've had people talk to me about this up in cottage country. They're saying: "If this goes through, what do we do? Do we withhold our taxes?" I said: "That's one potential solution. I don't like it, but there may be no other way."

**Mr Mammoliti:** Thank you very much for coming down, sir. The people in my community have talked for years about the possibility of withholding taxes from the government.

The people in my community are looking at a decrease when this comes through. They're actually looking forward to that decrease.

You talk a little bit about inequity. You talk about the flaw in this particular proposal. What about the flaw in the current system itself? I'll give you an example. In my community, we can't see why a person, for instance—and I can give you a few examples of Forest Hill homes, homes that might cost \$1 million, \$1.5 million or \$2 million, paying less property taxes than somebody in my particular riding that might have a 2,000-square-foot home and might be paying \$3,000 in property tax. That's not fair. The system as it is isn't fair.

This system here would provide for a decrease for approximately 57% of individuals in Metro. If you were to ask me whether there is a problem, I would say yes. If you were to ask me which of the two I prefer, it's this one, because the majority of the people in Metro at least get a decrease in their property taxes. If you ask me whether we should concentrate on revamping the system, I would tell you yes, and I would be an advocate of that as I've been in the past, but that's going to take some time. In the meantime, I'm looking forward to giving some relief to 57% of the people in Metro, and I think they would appreciate it.

I guess what I want to ask you is, what are you going to say to Adidas, for instance, in terms of business in my riding which is getting a \$17,000 decrease if this goes through? That's just an average. What are you going to say to them if the government puts a halt on this?

**Mr Parr:** My position on that would be that they knew what the game was when they came in. They knew what their taxes were.

**Mr Mammoliti:** They also knew they were paying a little too much compared to the Forest Hill homes.

**The Acting Chair:** Thank you, Mr Mammoliti. Thank you, Mr Parr. We appreciate your coming here this evening.

#### CONCERNED BUSINESS PEOPLE AND PROPERTY OWNERS, CHINATOWN DIVISION

**The Acting Chair:** The next presentation comes from the Concerned Business People and Property Owners, Chinatown Division. Good evening and welcome to the committee. The committee has allocated 20 minutes for your presentation. You may begin by introducing yourself and indicating your position within the association. We're ready to go.

**Mr Tony Yu:** Formerly I prepared my speech for 10 minutes because that's what I'd been told, so it's not going to be 20 minutes.

**The Acting Chair:** There's more time for questions then.

**Mr Yu:** No problem. My name is Tony Yu. I'm the director for the Concerned Business People and Property Owners, Chinatown Division. Members of this committee and Mr Chairman, thank you for the opportunity to express my concern about the negative impact that Bill 94 will have on the economy on behalf of Concerned Business People and Property Owners, Chinatown Division.

Today I stand to make the most important speech of my life. I have the opportunity to convince the standing committee on social development to stop Bill 94 and consider changing the assessment system we now have, because it dates

back to some 250 years ago. At that time, the need of society and the complexity of the economy were different from today's, therefore this assessment system should be changed.

With the present system, two properties exactly the same located in different parts of the city but with identical services would have two different tax rates and two different market values. In other parts of the city, two vastly different properties on different-sized lots which have significantly different services could end up paying the same tax.

As for my location at 285 Dundas Street West, the building was renovated three years ago and the property tax went from approximately \$2,000 to \$6,000, and three years later from approximately \$6,000 to \$14,000. The owner has been penalized to make the neighbourhood nicer. Meanwhile, next door's owners did not renovate their property, yet their property tax went from approximately \$2,000 to \$14,000. They have been penalized for not making the neighbourhood nicer. Therefore, this assessment system should be changed.

With today's rental properties, commercial and residential, property tax is passed on to the occupant by the owner. Many low-income earners and those businesses that are struggling out of this recession will face homelessness or bankruptcy because the leaders of our society fail to recognize that market value has no relationship to income or ability to pay, and I must not fail to mention that business tax is the same. Thus, it creates millions of dollars in back taxes, and therefore this assessment system should be changed.

It is true that property value must be brought up to date, but not with the present assessment system. There are some properties paying as little as \$800 to \$900 in property tax in Metro, but you must take into consideration that many residential and commercial sites had their property value increased a couple of years ago. It is wrong to increase those properties' value again. The government should at least look at other options. Perhaps it might be more fair to reassess those lots on an individual basis and upgrade those property values accordingly. I should also emphasize: Leave those properties that were reassessed a few years ago alone.

#### 2200

Scarborough residents are paying higher property tax than those in Metro. That is most unfortunate. We must acknowledge the fact that the residents in Scarborough had full knowledge of the property tax prior to their purchases, knowing that they could afford it and make that decision by choice, unlike the residents in Metro. Many of them had bought their properties long before high taxes came into place. Today they are paying high property tax, not by choice. Now it has come to the point that business tax, property tax, personal tax and many other taxes have nearly exceeded their personal or business revenue. The consequences of this effect goes in a cycle.

Many will be unemployed, businesses will shut down, landlords will neglect their properties because no rents will be received. In turn, the government will lose that portion of tax revenue and more strain will be placed on government resources due to the unemployment. What will the government do then, I ask you? Increase taxes again? If so, then we are heading towards the inevitable economic nightmare in this country.

The prime objective of any type of taxation is to create productive programs and to pay for government administration



costs without hindering the survivabilities of their citizens. Unfortunately, due to high taxes, this system does not allow people to live a normal standard lifestyle. For every dollar we make, over 50% of our dollar goes toward taxes. If that's not extremely high taxes, I don't know what is.

The government should not increase taxes every time it needs more money for its uncontrollably high expenditures, especially when the country is still in a recession. Not only this standing committee, the leaders of this country should take notes from average households and businessmen on how to tighten their belts in an economic time like this.

At this time, I would like to add that a few of my friends I have known for many years have just recently lost their jobs. Most of them have been working at the same company for many years, but due to the economic downfall the company had to downsize. They were caught in the crossfire.

If this present government had enough hindsight to try to prevent this tragedy, more people would be employed again. Extra money could be generated and the government would reap the benefits. Instead, what the government is saying is: "We need money. Since we don't have a solution to the problem, let's bleed the people some more, take some more money from them and increase tax some more. Why not? What are they going to do?" Well, what about the people? Does this government really care about them? How will they survive? Will they be able to keep their houses or businesses or lose them to the government?

One of my friends who has recently lost his job is now trying his hand at selling real estate, even though he was trained to be an engineer. With Bill 94, the real estate market will come to a standstill. Do you think a prospective buyer will attain the property when there's a full implement on the property tax for the new occupant? Even with 10% tax increase each year and 5% for a third year, it is still counterproductive for the economy at this time. Please allow time for us to heal from the recession and to rebuild our economic stability.

In closing, Mr Chairman and members of this committee, please take into strong consideration what this Bill 94 will do to the economy and the citizens. I hope this public hearing will result in the cancellation of this bill and a fairer assessment system will be put in place of it.

**The Acting Chair:** Thank you. Mr Mammoliti has at least one question.

**Mr Mammoliti:** Again, I want to keep the property tax plan, in terms of this government anyway, separate from the proposal that's in front of us. I want to tell you that many of us are looking towards reform, many of us want to reform property taxes, but it's separate from this issue, in my opinion. This is a proposal that's coming from Metro. This is what Metro wants. They've asked us to implement it. In my opinion, if we do anything but, it'll set a very dangerous precedent at the provincial level.

I want to talk about something you said on page 2, "We must acknowledge the fact that the residents in Scarborough had full knowledge of the property tax prior to their purchases." Sir, when I bought my home in North York, and Scarborough is comparable, it was worth \$255,000. I looked at a comparable home downtown at that time. It was approxi-

mately \$350,000 to \$400,000. It was affordable, sir; it was affordable to me. I couldn't afford to live downtown.

When you talk about how we knew the property taxes were that high up in North York or Scarborough, I think you should acknowledge the fact that it's a little more expensive downtown as well, as I would acknowledge. You have it hard, no question about it, but property taxes should be fair. In Scarborough and in North York they're paying a little bit too much in property taxes and this plan would allow for a decrease for a lot of them, the majority of them, and they're looking forward to it. It's not to say that nobody understands your particular concerns.

What would you have to say to them, to the people who are looking forward to this decrease, the people who couldn't afford a home downtown because of their financial situation and are paying more taxes up there and looking forward to this decrease? What would you say to them after I've explained this to you?

**Mr Yu:** For one thing, the people I know who bought the property in Scarborough, and Unionville for that matter, knew that in property taxes they were going to have to pay \$3,000 a year, as a matter of fact. But compared to the price they were paying downtown, they were getting a much nicer area, bigger land; the house is bigger than in Toronto.

**Ms Poole:** Smaller mortgage.

**Mr Yu:** Yes, smaller mortgage. But they know they are going to pay \$3,000.

**Mr Mammoliti:** Yes, but keep the property taxes aside. Forget the value of the home for a second.

**Mr Yu:** I cannot do that. This is the whole issue here.

**The Acting Chair:** Perhaps, Mr Mammoliti, you would permit Dr Frankford to ask a question.

**Mr Yu:** This is the whole issue. This situation was created by the government. As a matter of fact, I'm happy for them if they get those decreases, but you also have to understand the amount of decrease they're getting and the amount of increase we're getting downtown. What would you say to the people who will be paying \$300,000 in property taxes? What would you say to them, from \$30,000 to \$300,000?

**Mr Mammoliti:** I'd say to them—

**The Acting Chair:** Order. Dr Frankford.

**Ms Poole:** George, we don't want to hear your answer.

**Mr Robert Frankford (Scarborough East):** Thank you, Mr Chair.

**Mr Yu:** He asked a question. Please allow me to finish the answer, Mr Chairman.

**The Acting Chair:** It's his colleague.

**Mr Yu:** I would appreciate it.

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**Mr Frankford:** I really wanted to pick up on the same observation, and I'd like to compliment the witness on at least acknowledging the difference in Scarborough, because we really seem to have spent the evening listening to people who have taken a very Toronto-centred, literally, point of view, and you do note that the property taxes are higher, so I suppose I could really give you the opportunity of continuing with what you were saying.

Let me point out that basically we are talking about equity, as my colleague, Mr Mammoliti, says, that there are striking imbalances. To go back historically, we are dealing with quite low taxes because the assessment was done many years ago, and then the suburbs were built more recently. If this is the system that we are supposed to be dealing with, it would seem obvious that it is an inequitable system. I think that it's untenable, and we've heard from Mayor Trimmer, referring to possible tax revolts by the people who feel that they are unfairly overassessed. Would you like to just carry on with what you were saying?

**Mr Yu:** Yes, I would, thank you. The benefits some people in Scarborough and North York are getting from the decreases compared to the increase from downtown, you lose in the long run. Okay? The government is going to lose in the long run. The people who are going to pay high taxes in Toronto end up either shutting down the business or losing their homes. They end up on welfare, unemployment. Where is that money going to come from?

**Mr Frankford:** I think I should finish. But with respect, savings of revenue in Scarborough will go into the economy of Scarborough or of Metro, so this cannot be a totally losing game. It's a readjustment game.

**Mr Yu:** That is a debatable point, though.

**Ms Poole:** Thank you very much for your presentation this evening. You've just made a very valid point. You said government is going to lose in the long run.

**Mr Yu:** Yes.

**Ms Poole:** Government's going to lose if businesses shut down. They're going to lose if jobs are lost. They're going to lose if the city of Toronto is not kept viable. So thank you for raising that point of view. I really have difficulty when Dr Frankford mentions the fact that what we've heard from is the Toronto-centred point of view. Earlier in your comments you made a point that I think he should have paid attention to. The health of Metro depends on the health of the city of Toronto.

**Mr Yu:** Yes

**Ms Poole:** I think you made that point very well.

I get the impression from your brief that you believe a lot of businesses and small businesses in the city of Toronto are right on the verge right now and that this plan will be the straw that breaks the camel's back.

**Mr Yu:** Yes. For instance, in my case, I just started my business the beginning of this year and, as you know, when you start the first year of a new business, you'll be lucky to break even the first year, let alone make a profit. I've been going without pay myself since January to keep this operation going, to pay my staff. Even with this 10% increase next year, it's that 10% I don't have. Okay?

It's entrepreneurs like myself who built this country. If you take away the tool they need, which is the amount of profit they need to make from business, they cannot do anything; they cannot build Canada, and that is one of the points I'm trying to make.

You benefit one area, then you break the other, so you're not really solving the problem, you're just moving the problem, shifting it back and forth, like robbing Peter to pay Paul. The problem still remains, and about three or four years later,

when the government doesn't have enough resources to pay for the unemployment and welfare—I'm sure some of the businesses will go to Scarborough but it definitely will not be 100% or 80%.

When the government needs more money at that time, what are you going to do? Raise the taxes? Well, you definitely cannot raise the taxes in Metro, because nobody has any money to pay. Where are you going to go? You're going to go to Scarborough, North York, Mississauga. You guys are going to be next, after we die.

**Ms Poole:** Do you realize that when you said a 10% increase next year, that is only the increase due to market value, that in addition to that you will have all the regular increases that would come about? Because there have been increases at the board of education, increases in Metro spending with the welfare rolls blooming, things like that. You're probably looking at a 15% to 18% total increase over the next year, not just 10%.

**Mr Yu:** Well, close to 20%. You have to consider the business tax too. A lot of people fail to mention business tax. As your market value goes up, your business tax goes up too. My business tax went up 130%. That's no relation to what I can make from cutting hair. With the business tax and MVA, I have to make that extra \$10,000 right now in today's economy. You know, \$10,000 may not be a lot of money for some people, if you're making \$56,000, and I understand most politicians are exempt from taxes, but if you have to pay taxes, then you will see this whole thing from a different perspective.

In my business I can make \$80,000 a year, no problem. But out of that \$80,000, right now I've got about \$83,000 in expenses, including taxes and rent and all that. If I only had to pay maybe \$30,000, I'd be laughing, I'd be happy: I'd make \$50,000 in a year. But I'm making \$83,000 a year and I'm still in the hole. So there's a problem.

**Mr Turnbull:** Mr Yu, you make some good points. Tell me something. Would it not be fair to say that irrespective of where your business was, whether it be downtown or Scarborough, you would probably expect to have the same number of customers come in per day into that store?

**Mr Yu:** Generally speaking, yes. But the hairdressing industry is a little different. When you find someone you like and trust with your hair—

**Mr Turnbull:** I understand that. Would you be able to get more money by operating downtown? I'll tell you what I'm leading to. I'm saying that the relationship between the value of the building and how much you can earn is absolutely not there; there is no relationship. If you're in premises which had this balloon factor in 1988 in downtown Toronto, you weren't able to earn more money than in Scarborough, but because the building was worth more, you're being taxed more under this system.

**Mr Yu:** Not only that, but you have to add that in downtown there's no parking space. I have a lot of customers. I've got a new shop in Scarborough; I have to have a parking lot. "It's so hard to get down to your place, Tony." I'm losing that part of the business. Maybe many years ago, that was true. When you're downtown, you should make more money and you should have more business. But nowadays it's different.



**Mr Turnbull:** So the idea of basing the tax for businesses on the property value of the premises they're in is rather a silly notion.

**Mr Yu:** The property value in downtown is higher. It's because it's downtown, and you've got more traffic; when there's more traffic around that area, that value is going to be more. But that was, as I said, many years ago. You have that traffic, but people are not going to stop. They're just going by, because there's no place to park. The traffic is there, but the business is not there.

**Mr Turnbull:** So going back to my favourite subject, unit assessment, if you had unit assessment, where the same size of store in two different areas of Metro would pay the same amount if they were exactly the same size, that would be more equitable, wouldn't it?

**Mr Yu:** That would be definitely much better than the system now.

**The Chair:** Thank you for coming this evening, even though we're a little tardy in having you present.

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RICK WELZEL

**The Acting Chair:** The final presentation, Rick Welzel. Good evening, sir. You have the opportunity of batting cleanup this evening.

**Mr Rick Welzel:** It'll be my pleasure.

I have attended the public deputations twice in Metro hall. I've had extensive consultations with various Metro councillors on a one-on-one basis. The conclusion of those meetings is that they are blaming the mess on the province, and the province is blaming the mess on Metro. Then we have a chairman, Mr Tonks, who is absolutely obsessed with bringing in market value at any cost whatsoever, and I say at any cost: a man with a total obsession to bring in market value.

I am speaking to you, Mr Chairman and members of the social development committee, to express my opposition to Metro's approval of the inflated fantasy market value assessment. Also, I support fair property taxation. Commercial properties should be taxed on their size and nature, but your proposed market value assessment plan is totally out of whack with any reality.

I do not support a proposal that has such a negative impact on our small and medium business sector. I also cannot support the existing proposals because, should Parliament decide to implement commercial tax increases at 25% over three years, such a cap would only be temporary; I say "temporary" because the province has given us no assurance otherwise. I address this also to Mr Cooke. Does that address the problems of long-term economic stability and the devaluation of properties?

Also, how could small business absorb a 25% increase in the midst of the worst recession since the 1930s? If a shortcut to tax reform is taken, the results will be devastating, and I underline "devastating." Higher taxes will make the inner city a less attractive place to live, which consequently will accelerate in the suburbs. Work and families will move out, stores will close and more businesses will leave. I don't think that is the intention of the provincial government.

The Toronto and provincial tax base will shrink. The inner city will begin to decay. Just look at what happened to those once-powerful cities in the United States. When market value was implemented, taxes were raised and crime and social unrest escalated. I ask the Chairman and members of the committee to put a hold on the implementation of the MVA shame, these proposals with more flaws in them than leaves on a tree.

I'd also like to remind you, representatives of the public, that you were voted into office to make responsible and decisive decisions regarding the future of all of Metro and the province. I do not want MVA to force small business owners to abandon their businesses or their employees. I am positive, members, that you don't want that either. I do believe that we must achieve a solution which will result in a fair and workable reassessment tax system which will not destroy small or medium-sized business or devalue real estate.

Furthermore, in our turbulent economy and our uncertain political climate, we must recommend long-term workable solutions, which are not there in the current amendments. Business can only operate on long-term solutions.

May I make recommendations to the social development committee?

(a) Government should protect the business community and jobs by demanding a comprehensive and objective economic impact study of the Metro MVA shame. Implementation of the shame should be put on hold at least until that study is complete. The province should also carry out a study of alternatives to MVA, emphasizing alternatives which support the long-run viability of our economic base. That approach would avoid needlessly putting more people out of work.

(b) We need a fair tax structure to stimulate the investment climate for small and medium-sized businesses. Small and medium-sized businesses are the backbone of our Metro and provincial economies. Under those proposals presently before you, it's not in there.

(c) We need a tax structure to put people back to work instead of putting them out of work. These MVA proposals, so far accepted by Metro, will definitely put people out of work and will put nobody to work. What it will do to our investment climate—we have the Premier running around in the world, your Premier and my Premier, looking for investors to come invest in Ontario. With what we are trying to do here, believe me, no person in his right mind would come to Ontario or to Metro Toronto to invest in anything. I don't think people are aware that what really happens here is that under this proposal, originated full of flaws in Queen's Park, will actually kill the very thing it was created for.

Let me tell you what it will do. It will erode the provincial tax base. I can give you an example. Let's say this proposal becomes law. As a small business person, I would pay an additional \$20,000 in real estate taxes. I will be able to afford them, but what will happen is that I will pay this now to Metro Toronto. There will be no more money going to the provincial government and there will be no more money going to the federal government. So we erode, with those proposals, the entire tax base. So the very thing it was supposed to be creating, it will actually destroy.

Furthermore, since our investment climate is as bad as it is, now we're going even further, now it becomes really

deadly. What are you people going to do five years from now? You will not get any money from businesses. Moreover, businesses cannot just leave overnight, so they will just be flexible. The money will go to various and it will go to Metro. There will be very little corporate taxes; there will be very little other taxes. On top, there will be no new investment. So you basically will see only more businesses, under this proposal, moving out and out and out.

I'm a private citizen; I'm not a politician. I was never involved in any political party. I'm not biased. I got involved because I personally feel that somewhere down the line either all of us are sleeping and nobody is waking up—we have to sit together and discuss it; we have to work together. I don't know what contest that is, the Metro contest? This was the biggest circus I've ever seen in my life. It would make the David Frost show look like a pussycat against it. What was at stake? The future of our province. Some people have the notion that this has only to do with Metro and a few boroughs. There may be some problems in the tax system which are there, but this is not the route to go, gentlemen, absolutely not. I am deeply concerned.

**The Acting Chair:** Thank you. We appreciate your presentation. The members will note that the time set aside for Mr Welzel has expired. Thank you very much for coming this evening.

**Ms Poole:** Mr Chair, just before we adjourn, earlier we had a presentation which made very strong statements that people would be denied the right of appeal under this legislation. At that time I requested a response from the ministers of Revenue and Municipal Affairs. I wonder if the committee

could have an indication from the minister or staff from Municipal Affairs when we could expect to have this information. I think it's vital to the work of the committee.

**Hon Mr Cooke:** When you want an answer to that question, the ministry can provide an answer to the question. Somebody from the ministry can provide it tomorrow.

**The Acting Chair:** The minister has indicated that the response can be provided tomorrow. In light of the heavy committee hearing schedule, though, would it be acceptable to have it in writing? That's fine? The minister will file tomorrow.

**Ms Poole:** Mr Chair, might I suggest that when we get the material in writing, if there are questions that stem from it perhaps we can arrange for 15 minutes at a time that doesn't interfere.

**The Acting Chair:** I suspect we could probably arrange something after we see whether something needs to be arranged.

**Ms Poole:** Thank you, Mr Chair. I'm happy with that.

**The Acting Chair:** I indicate to the committee that tomorrow we will be starting at 9:30. The clerk has undertaken, at the request of Mr Owens, to provide a list to each of the caucuses of the witnesses who will be appearing tomorrow. Mr Arnott will be delivering to Mr Owens, Mr Grandmaître and Mr Turnbull a list of the presentations for tomorrow.

The committee is now adjourned. Tomorrow morning at 9:30, same place.

The committee adjourned at 2231.



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## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

**\*Chair / Président:** Beer, Charles (York North/-Nord L)

**\*Acting Chairs / Présidents suppléants:** Grandmaître, Bernard (Ottawa East/-Est L); Brown, Michael A. (Algoma-Manitoulin L)

**Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

Drainville, Dennis (Victoria-Haliburton ND)

Fawcett, Joan M. (Northumberland L)

Martin, Tony (Sault Ste Marie ND)

Mathysen, Irene (Middlesex ND)

O'Neill, Yvonne (Ottawa-Rideau L)

**\*Owens, Stephen** (Scarborough Centre ND)

White, Drummond (Durham Centre ND)

Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)

Wilson, Jim (Simcoe West/-Ouest PC)

Witmer, Elizabeth (Waterloo North/-Nord PC)

### **\*In attendance / présents:**

#### **Substitutions present / Membres remplaçants présents:**

Brown, Michael A. (Algoma-Manitoulin L) for Mr Beer

Frankford, Robert (Scarborough East/-Est ND) for Mr Gary Wilson

Grandmaître, Bernard (Ottawa East/-Est L) for Mrs Fawcett

Mammoliti, George (Yorkview ND) for Mr Drainville

Mills, Gordon (Durham East/-Est ND) for Mr Martin

Poole, Dianne (Eglinton L) for Mrs O'Neill

Rizzo, Tony (Oakwood ND) for Mrs Mathysen

Stockwell, Chris (Etobicoke West/-Ouest PC) for Mr Jim Wilson

Swarbrick, Anne (Scarborough West/-Ouest ND) for Mrs Mathysen

Turnbull, David (York Mills PC) for Mrs Witmer

Wiseman, Jim (Durham West/-Ouest ND) for Mr White

#### **Also taking part / Autres participants et participantes:**

Cooke, Hon David S., Minister of Municipal Affairs

Marland, Margaret (Mississauga South/-Sud PC)

**Clerk / Greffier:** Arnott, Douglas

#### **Staff / Personnel:**

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## Legislative Assembly of Ontario

Second session, 35th Parliament

# Official Report of Debates (Hansard)

Wednesday 2 December 1992

## Standing committee on social development

Metropolitan Toronto  
Reassessment Statute Law  
Amendment Act, 1992

## Assemblée législative de l'Ontario

Deuxième session, 35<sup>e</sup> législature

# Journal des débats (Hansard)

Mercredi 2 décembre 1992

## Comité permanent des affaires sociales

Loi de 1992 modifiant des lois  
en ce qui concerne les nouvelles  
évaluations de la communauté  
urbaine de Toronto

Chair: Charles Beer  
Clerk: Douglas Arnott

Président : Charles Beer  
Greffier : Douglas Arnott



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# LEGISLATIVE ASSEMBLY OF ONTARIO

## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

Wednesday 2 December 1992

The committee met at 0937 in room 151.

METROPOLITAN TORONTO REASSESSMENT  
STATUTE LAW AMENDMENT ACT, 1992  
LOI DE 1992 MODIFIANT DES LOIS  
EN CE QUI CONCERNE  
LES NOUVELLES ÉVALUATIONS  
DE LA COMMUNAUTÉ URBAINE DE TORONTO

Consideration of Bill 94, An Act to amend certain Acts to implement the interim reassessment plan of Metropolitan Toronto on a property class by property class basis and to permit all municipalities to provide for the pass through to tenants of tax decreases resulting from reassessment and to make incidental amendments related to financing in The Municipality of Metropolitan Toronto / Loi modifiant certaines lois afin de mettre en oeuvre le programme provisoire de nouvelles évaluations de la communauté urbaine de Toronto à partir de chaque catégorie de biens, de permettre à toutes les municipalités de prévoir que les locataires profitent des réductions d'impôt occasionnées par les nouvelles évaluations et d'apporter des modifications corrélatives reliées au financement dans la municipalité de la communauté urbaine de Toronto.

**The Acting Chair (Mrs Elinor Caplan):** The standing committee on social development is now in session. This morning we will be having public hearings on Bill 94. There's a representative here from each of the three caucuses.

### YORK MILLS HEIGHTS RATEPAYERS

**The Acting Chair:** I call the first presentation, the York Mills Heights Ratepayers. I'd ask that you begin by introducing yourself to the committee. You have 20 minutes for your presentation; we'd appreciate it if you'd leave a few minutes at the end for questions from the committee, but that is entirely up to you. I will notify you when you have five minutes remaining in your time; I'll notify the committee members as well. Please have a seat and speak right into the microphone.

**Mr John Clinkard:** My name is John Clinkard. I'm president of the York Mills Heights Ratepayers association. Ladies and gentlemen, I represent residents who live in the neighbourhood bounded by Highway 401 on the north; the crest of the Don Valley—that is to say, the west branch—on the east; the city of North York/city of Toronto boundary on the south, and Yonge Boulevard on the west. We have approximately 350 residents in our area.

In our view, this proposed legislation would have a very damaging impact on small commercial business in our immediate vicinity but also throughout the Metro area. As most of you are aware, unemployment in this city is at a post-Second-World-War high, higher than in all but two of the seven other metro areas in the province.

Business confidence has been severely eroded by this recession, and most economists who monitor the region's economic

health, including myself in the role of senior economist for a major Canadian chartered bank, are of the opinion that it will take several years for the unemployment rate to return to pre-recession levels.

Just the day before yesterday, a national employment survey revealed that Toronto had one of the weakest job markets in the province. The report indicated that employment demand in the Metro area was lower than in all but five of 19 centres surveyed.

In 1990, the most recent year for which data are available, small business, ie, those employing five or less, was the only source of net employment growth. The other four business categories, 5 to 19, 20 to 49, 50 to 499 and 500-plus, all recorded net declines in employment. Bill 94 would increase taxes on a large number of small businesses which will serve as a key source of new jobs in Toronto over the next several years.

Under this proposed legislation, taxes are supposed to increase by 50% over the next three years on an estimated 43,000 businesses. This is a significant understatement of the increased financial burden on all businesses in Metro, given the fact that municipal taxes will rise by at least 5% and we could also see provincial taxes rise by a considerable amount in 1993.

This tax increase, plus higher electricity rates, up 15% to 20% in the next two years, will cause many small and medium-sized businesses to experience continued financial stress, despite improving economic conditions in other parts of the country and in the US.

It's also true that taxes on many commercial properties will be reduced. However, in light of the weak economic conditions and the high level of uncertainty across the city, it is more likely that business will use this tax saving to reduce debt and to increase profitability rather than to hire.

Our association recognizes that there's no best time to introduce a major taxation policy; however, there is a worst time. With the Metro economy in such weak condition and with unemployment at record levels, this is the worst time. Our association requests that this committee recommend that this legislation not be implemented at this time, since it would materially slow the rate at which the Metro economy recovers.

Second, our association requests that this committee recommend that the base year for valuation be changed. The period 1986 through 1989 was the most volatile in terms of property prices in the history of the city. House prices in that period rose by over 150%. We believe that choosing a less volatile period as a base year for assessment purposes would result in fewer appeals of assessment, given that speculative activity artificially inflated the price of many properties across the Metro area. In addition, the choice of a more stable time period would reduce and possibly eliminate the need to set up a large, expensive bureaucracy to perform a

reassessment every four years. A more suitable base period would be 1983-84, with reassessments every 8 to 10 years.

Third, our association requests that the committee recommend that the concept of market value assessment be broadened in order to take into account some measure of services used by a property, based on the unit value of the property in question.

Fourth, our association acknowledges that the proposed legislation would materially increase uncertainty for owners and renters of commercial properties as well as for home owners. In the case of commercial properties, this uncertainty about what will happen after three years will provide an incentive for all business to move to lower tax jurisdictions, thereby robbing the Metro area of essential revenues.

Those businesses which are "footloose" will move first to take advantage of the glut of vacant commercial space on the Metro fringe. In addition, owners of properties needing upgrades will postpone any improvements they might make to a property since they are not sure if the building will generate the revenue necessary to pay for them. In the case of residences, the uncertainty of what will happen after two years will distort the housing market.

For these reasons, our association requests that the committee ensure that whatever legislation is introduced eliminates uncertainty about property taxes. To this end, it should contain a clear outline of how any changes in the property tax system will be completely implemented, not partially implemented, as is now the case.

Thank you very much for giving me the opportunity to address you. I'll take any questions.

**The Acting Chair:** Thanks very much for your presentation. Questions from the committee?

**Mr David Turnbull (York Mills):** John, thank you very much for your excellent presentation. You could be cast as an expert witness, given the fact that you're a senior economist. You state that in the period 1990, only businesses with five or less employees grew.

**Mr Clinkard:** On net, yes.

**Mr Turnbull:** What do you say would be the likely impact on Metro of the thousands upon thousands of businesses, particularly small businesses, that will get significant increases on their market value reassessment?

**Mr Clinkard:** As I indicated in my presentation, I feel that many companies will take this money and wait before they do anything with it. This money will come in not as an increase in revenue; it's a decrease in the amount they have to spend. So the money will filter in, and this money will be used to pay down debt, which we all know is quite high, and it will be used to improve profitability to make your bank balance look better, so the bank is not looking at you as carefully as perhaps it has been. In my opinion, these two decisions will take precedence.

**Mr Turnbull:** I was actually speaking about the ones who are getting increases.

**Mr Clinkard:** Sorry. People who have tax increases I think will be forced to either hold the line, not hire, or in some cases I could see having to reduce staff in order to pay increased overheads. The ultimate impact, of course, would be to force companies to close or to move elsewhere.

**Mr Turnbull:** So there will be job losses.

**The Acting Chair:** Thank you, Mr Turnbull. Question, Mr Owens?

**Mr Stephen Owens (Scarborough Centre):** A quick question, but it may require a lengthier response. You've outlined fairly succinctly the problems you see with this proposed plan. I have some sympathy with the concerns that have been expressed by yourself and many of the other witnesses to date. My question to you, however, is how do we go about addressing the inequities that are currently within the system? On the side of Victoria Park that I represent in Scarborough they are paying proportionately higher taxes than a house or a business on the other side of Victoria Park Avenue. How do we go about addressing those inequities?

**Mr Clinkard:** I think the first step is to look at a concept, as I pointed out, of taxation that addresses not only the value of the property but the services it gets. So I'm looking at a combination of unit value and market value assessment.

I agree that something has to be done to address the tax inequities that exist. I think it is unfair. There are houses in our area that are paying taxes that are disproportionately low. I will be the first to acknowledge this.

To express that thought more fully, I think many of the properties in our area will experience higher taxes. I don't have a problem with that. My problem is that if you're going to increase taxes and implement a process of re-evaluation and bring property taxes to a more realistic level, then let's do it based on values more representative of their long-term value; this is to say, not just the 1988 period but a more stable period. The last time we did it was in 1952, which was a fairly stable period. Prior to that, I think it was 1944; that was a fairly stable period. I think it's the wrong year and that's a very important point, because speculative activity would have driven up prices in some areas for a very temporary period of time.

0950

Putting the shift on to commercial properties I think is a mistake, because that is the generator, the spark plug of activity in a city, small business. That's the initial source of jobs, of new growth. We see all these large companies, including the financial services sector, that are holding their own by—our bank has a hiring freeze; most others also. We're not hiring. It's these small businesses that are the only source of the entrepreneur. This is where he gets started. I think this legislation is not going to have a positive impact on them at all.

**Mr Bernard Grandmaitre (Ottawa East):** I agree with you that between 1986 and 1989 were real estate boom years in the Metro area, but an impact study was done to look at a 1984 value and a 1988 value, and this committee is being told that there's very little difference between a 1984 and a 1988 impact study. Do you believe this?

**Mr Clinkard:** I haven't seen the study. I can't comment on it. I'm afraid I don't know.

**Mr Grandmaitre:** But this is what we're being told: using the same number of units, one million or 1.1 million units, very little difference. Would you believe this?



**Mr Clinkard:** I would find that difficult to believe because of the dramatic increases in some areas versus some other areas. I can speak to the centre part of the city and some parts of North York, where I've seen this happen. It would appear that when you've had a speculator—I can give you a personal experience. I bought a house in 1982 in North York, and at that time there were very few houses on the market. A lot of people were basically just holding their own in terms of buying or selling a house: Nobody was buying, nobody was selling. As we went into the 1983-84 period, more houses came on to the market. But I think in 1986 what happened is that the market started to free up some more and then you had a speculative demand that started to accelerate during this period, and those drove up the price on a fairly limited supply of houses. There wasn't the supply of houses that started to enter the market, for example, in 1987, 1988, 1989, more in the late period of 1989-90. In my opinion, there would have been a larger gap in that period.

**Mr Robert Frankford (Scarborough East):** You were saying that taxes should reflect the services?

**Mr Clinkard:** I believe that some representation of services should be factored in, yes.

**Mr Frankford:** What would you say about an area like the one I represent, Scarborough East, where home owners' taxes are higher and services are less? There is less public transportation than downtown. There is no subway. There is less garbage collection. There is an inequity there, isn't there? Should not the taxes go down?

**Mr Clinkard:** You have a heterogeneous entity in a city. It's not homogeneous. You have certain areas that have a greater need for transportation. I believe there are 500,000 jobs in the city of Toronto. It's by far the source of employment for the Metro area, or it offers more jobs, and clearly its transportation needs are higher in order to allow those people to commute. I guess I'm not sure when you say the services are not as high in that area. Are there the jobs there that require the services? Do you see what I'm saying?

**The Acting Chair:** There are just two minutes remaining.

**Mr Turnbull:** To continue on that same subject, it is often suggested by those people, particularly in Scarborough, that they don't have the advantage of subway service, whereas of course the subway does go to Scarborough. If one were to take the cost of the subway and try to apply it to some sort of utility value to the residents of the neighbourhood, I think it would be fair to say that there's not an awful lot of people in your neighbourhood who actually use the subway. Is that fair to say?

**Mr Clinkard:** A fair number drive, yes.

**The Acting Chair:** Thank you, Mr Turnbull. I appreciate your time. There's one minute remaining, if there's anything you'd like to sum up and share with the committee.

**Mr Clinkard:** Just briefly, as I indicated in my remarks, there's no best time to introduce tax reform or a major change in tax legislation, but given the weak state of this economy, this is the worst time. We've never had unemployment in the city as high as it is today, and this will definitely dampen employment growth and extend the recession this city is experiencing.

**The Acting Chair:** The committee appreciates your appearing this morning. If there's anything additional you'd like to communicate with the committee, you may do so in writing. We appreciate your coming.

For the information of members of the committee, it's my intention, if time permits, to rotate through the caucuses on the basis of who requests a question. I will be quite lenient with the deputations around the amount of time they take in answering and I'll be quite strict with the members about the time they take in asking the questions, if that's acceptable to everyone.

**Mr Grandmaitre:** What else is new?

**Mr Owens:** We do appreciate your—

**The Acting Chair:** I just thought I'd clarify that for you in case you'd forgotten, Mr Owens.

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#### MARATHON REALTY CO LTD

**The Acting Chair:** I'd like to call next the Marathon Realty Co Ltd. You have 20 minutes for your presentation. We ask that you begin by introducing your delegation to the committee. If you could leave a few minutes at the end, we'd appreciate it so the committee could ask you questions, but the time is yours to use as you wish.

**Mr John Beales:** My name is John Beales, and I am the executive vice-president of Marathon Realty Co Ltd. I am joined by Mr Douglas Aitken, the president and chief executive officer, and Mr Cam McCollum, the property tax manager for Marathon Realty.

Thank you for allowing Marathon the opportunity to address the committee with respect to the Metropolitan Toronto interim reassessment plan. Our comments this morning will be directed to the issue of the proposed treatment of vacant land under the Metro plan.

Marathon Realty Co Ltd is a corporation with a mandate to develop and operate commercial property throughout Canada. In its capacity as an owner of commercial property, it manages approximately 3.7 million square feet within the municipality of Metropolitan Toronto. Its portfolio is diverse and includes such well-known properties as Metro Centre, Atria, Citibank Place, 40 University Avenue, 1500 Don Mills in North York, North York Square in Don Mills, CIL House in North York and the Dufferin and Agincourt malls. We are a significant taxpayer. Our tax bill for those properties is something in the order of \$15 million to \$16 million a year.

In addition to our built portfolio, our portfolio includes a significant portion of the former railway lands in downtown Toronto known as Southtown. This presentation addresses the impact of the interim Metropolitan Toronto reassessment plan on the viability of the proposed development and the negative impact on the public benefits proposed in this development.

It is our understanding that the intent of the interim reassessment plan of Metropolitan Toronto council is to move forward in an orderly manner towards a fair and equitable tax system. It has been conceived and brought forward as a step towards market value reassessment.

Marathon Realty Co Ltd acknowledges that a gradual move towards a market-value-based system of assessment reform is necessary to reduce the existing inequitable tax treatment of

similar properties within Metropolitan Toronto. We also support the Minister of Municipal Affairs in his view that full social and economic impact studies must be carried out prior to the move towards full market value assessment. We note that the minister also emphasized that Bill 94 does not empower Metro council to implement full market value assessment during the five-year interim reassessment plan.

Marathon's concerns specifically relate to the treatment of vacant land, now to be part of a new category of property called "other property class" under the Metro plan. We think it is very important for the committee to understand how this new category of land came into being. First, however, the committee should appreciate that Metro has proceeded through an extensive consultation process, and Marathon was part of that process.

Dating back to 1989, Marathon, primarily through CIPREC, the Canadian Institute of Public Real Estate Companies, took part in public discussions to reform the property tax system in Metro to bring about a sense of fairness and equitable treatment that was lacking in the existing property tax system.

The problem with the current Metro plan is that it was conceived at the last minute by Metro council without the benefit of renewed public input and comment. Out of these last-minute changes emerged this discriminatory treatment of vacant land, whereby it was specifically excluded from the capping provisions afforded to virtually all other residential, commercial and industrial property. Mayor Rowlands of the city of Toronto has characterized this compromise as an irrational hybrid. This is clearly at odds with the minister's position that the Metro plan does not introduce full market value assessment, but rather that full market value assessment must first have the benefit of social and economic impact studies.

It is our strong opinion that Metro should not be permitted to immediately implement full market value assessment on vacant land, and we urge the provincial government to prevent it from doing so.

Furthermore, we are advised by Metro staff that the capping provisions of the Metro plan will extend to land development parcels that are presently occupied with an interim use and subject to the payment of business taxes. However, lands that are incapable of generating this type of activity on December 31, 1992, due to zoning or developmental restrictions will be severely penalized as to capping provisions; in fact, these provisions will not be available to those lands.

Marathon Realty is actively pursuing development approval for its Southtown project, the most significant multi-use development site in Metropolitan Toronto at this time, maybe even in Canada at this time, in fact. It is important that the committee understand the substantial benefits of this project and the causes of the current state of development in Southtown wherein there is no interim use.

Southtown's financial contributions and economic benefits are expected to be significant. It is estimated that Southtown will create 11,500 direct construction jobs or some 9,400 person-years of employment over the period of its development, innumerable indirect jobs and about 15,000 permanent employment positions when it is completed. In addition, Marathon's direct cost of site improvements and public infrastructure in Southtown will be at least \$73 million, of which

\$45 million has already been expended. Added to this is another \$55 million for rail relocation, studies, planning and design and other costs, for a total of some \$100 million that Marathon has already invested in the project.

Southtown is a public transit-oriented development. Southtown will take full advantage of its strategic location at the centre of the regional public transit system. With Union Station only steps away, it is reasonable to estimate that almost 80% of all employees within the Southtown project will use public transit. No other major centre in the GTA, if not in all of Canada, can compare with respect to reducing our reliance on the automobile.

Intensification of uses within the established urban areas also reduces the consumption of valuable land across the GTA. For example, if Southtown's office component were constructed in a suburban location such as Markham or Vaughan it would likely consume over 100 acres of land and generate close to five times the automobile trips.

Southtown is a new type of community. It will create a new downtown community that will achieve a number of significant urban planning objectives. While Southtown extends the downtown core, it will not be like King and Bay. Rather, it represents a new community linking downtown to the waterfront, with a full range of uses, activities and services.

Southtown will be a public place with wide streets, parks and other publicly accessible spaces. Bremner Boulevard, a wide, European-style pedestrian-oriented street, will be created through the community.

Finally, a 17-acre park, the largest in the central area and comparable in size to Allan Gardens, will be introduced next to the SkyDome. This central park will allow for the preservation of the historic railway roundhouse building and its related structures. There will also be the creation of a new public building related to the new façade and entrance on the south side of Union Station.

Marathon has endeavoured to proceed as rapidly as possible through a very complicated planning process in the development of Southtown. Following many years of public discussion and study, Toronto city council in September 1985 approved a new part II plan and zoning bylaw for the railway lands, which was confirmed by the OMB on December 3, 1986. The part II plan had a holding designation which prohibited Marathon from developing Southtown until the removal of such designation.

In July of 1988 Marathon made an application to have the designation removed and at the same time implemented a program for site preparation. That site preparation consisted of the removal of surplus railway lines, removal of 500,000 cubic metres of fill and extensions of various pedestrian connections under the railway lines. Marathon continued discussions with the city for the removal of the holding designation, and in March of 1990 Marathon applied for development of two commercial buildings.

However, on May 28, 1990, the city chose again to review the public objectives for the railway lands. Of consequence to Marathon, the city also passed an interim control bylaw in August of 1990 which froze all development on the railway lands until the review was completed. While certainly not pleased, to say the least, Marathon at that time chose to



enter into discussion with the city of Toronto rather than challenge the review at the Ontario Municipal Board.

Through those discussions, Marathon accepted a significant downzoning to accommodate public objectives and submitted new development applications to the city of Toronto in October and November of 1991 for two office towers and a public building. As a result of that downzoning, there was a loss of some 1.5 million square feet of density, which clearly has had a significant economic impact on the viability of the project.

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On August 14, 1991, the city of Toronto council passed a new part II plan and on September 23, 1991, the city of Toronto passed a new zoning bylaw for the railway lands east. From September 23, 1991, to October 1992 the city, Marathon, the Toronto Harbour Commission, Ontario Hydro and the Harbourfront Corp worked on the conclusion of outstanding matters. The new part II plan and zoning bylaws were referred to the OMB. That OMB hearing commenced in October of 1992 for the purpose of hearing the new railway lands east plan and bylaw. The evidentiary phase of that hearing is now concluded and we anticipate that on December 21, 1992, the OMB may render a decision on the city bylaws for the Southtown development.

We wish it to be noted that Marathon has acted very reasonably in this review process. We are not here to argue whether or not the review was necessary, but the fact remains that it has held up development of Marathon's lands. Marathon does not relish holding these lands vacant. We are continuing to aggressively move forward with a process of development in conjunction with the local governments.

In our view, the characterization of these lands as vacant is incorrect. These lands are in production. Marathon has expended and continues to expend a significant amount of money to move this development forward. With respect, there is absolutely no rationale whatsoever to treat development lands such as Marathon's Southtown lands differently depending on whether or not a business assessment exists for some interim use on those lands on December 31, 1992. In fact, when one compares this to similar development lands but lands which have on them an interim use such as a commercial parking lot and therefore a business assessment, the result is clearly discriminatory and unfair. Marathon would reasonably have had some type of use, at least of an interim nature, on the Southtown lands on December 31, 1992, if the development freeze and public review of its lands had not taken place. Now, even if an interim use were to be established next spring, it would be to no avail insofar as capping the impact of the full market value assessment. Moreover, the absence of a cap will penalize Marathon even further by making the economics of any future interim use prohibitive.

To penalize Marathon for following a development process imposed by local government with the consequence that it does not now have an interim use such as surface parking lots is not only discriminatory but grossly unfair. It demonstrates a real lack of understanding on the part of Metro council as to the consequences of its actions on the viability of this project, particularly given the current economic conditions that you all are quite aware of.

In our view, it is patently inequitable for the interim plan to separate future development land that does not happen to have an interim use established on it as of December 31, 1991, as a class of land which will receive the full impact of market value assessment. As the government has stated, full market value assessment as contemplated by this legislation may never come into existence. To acknowledge this while at the same time treating one sector of the economy as though it were fully in force and other sectors to the contrary is unacceptable.

The only other class of property, in addition to the newly created "other" property class, which is to be similarly discriminated against by the application of full market value assessment under Bill 94 is residential property upon a transfer of ownership. The frustration of discriminatory treatment of this class of property has been heard by the government, at least to the point of requiring Metro council to pass a separate bylaw to implement such discriminatory provisions. The government should not overlook the equally discriminatory treatment of vacant land. Consistent treatment of all property owners must be a hallmark of any property tax scheme. As stated, we support a movement to a fair and equitable tax system. This legislation, however, by its discriminatory treatment of vacant land is regressive and should not be passed without amendment.

In conclusion, we emphasize the following:

Marathon has proceeded as quickly as possible in the planning and development of Southtown and has cooperated with local government to provide significant public benefits in this development.

Marathon rejects the view that it should be discriminated against and penalized with respect to its land holdings vis-à-vis the holdings of another developer that happens to have an interim use as of December 31, 1992.

Marathon does not accept the position that the provincial government should rubber-stamp a flawed Metro plan which clearly discriminates against Marathon's Southtown development.

It has been suggested in the press by the Minister of Municipal Affairs, who has recognized this problem of the treatment of vacant land, that Marathon should go back and seek relief from Metro council after the legislation has been passed. With respect, the Metro chair has already said that Metro will not make any changes. The government therefore must not abdicate its responsibility for this legislation, but rather must address directly this discrimination in Bill 94 against vacant land.

In closing, we urge this committee to amend Bill 94 to remove the ability of Metropolitan Toronto to exclude vacant land from the capping provisions. We urge the committee to consider the fairness of such an amendment and place this type of property within the capping provisions applied to virtually all residential, commercial and industrial property within the municipality of Metropolitan Toronto.

**The Acting Chair:** Thank you very much for your presentation. What I would like to propose, with the agreement of the committee, is that each caucus be able to place its question. I have three speakers who would like to question and then the deputies will be able, with time permitting, to sum up and respond to all the questions at the same time or in writing. If that's agreeable, Mr Owens, place your question.

**Ms Dianne Poole (Eglinton):** Madam Chair, I just would like the answers to the questions to be on the record.

**The Acting Chair:** Well, there are two ways it can be done. You can place your question and then the deputation will answer in the time permitting at the end. If there's additional information, they can respond in writing and it will be part of the record of the committee as well.

**Ms Poole:** But they will be allowed to respond?

**The Acting Chair:** Yes, of course.

**Ms Poole:** Thank you.

**The Acting Chair:** Place your question, Mr Owens.

**Mr Owens:** It's hard to play devil's advocate in 60 seconds. Yesterday CP Rail testified as to some fairly catastrophic results, if this plan is implemented, with respect to the numbers of employees who would be affected if we proceeded following the plan and the treatment of railway lands. You folks are in a peculiar position, being an operating arm of CP Rail.

My question is: Based on the amount of money that Marathon will make on the development of this property, is there any thinking going into the use of that money to offset any problems of the parent company, CP Rail, with respect to market value assessment?

**The Acting Chair:** Question, Ms Poole.

**Ms Poole:** You have stated quite well in your brief that the minister's position that the Metro plan does not introduce full market value assessment is clearly at odds with the facts.

My question to you is: If all homes are assessed at market value at the point of sale, if all new construction and all lands, as you point out, under production are assessed at full market value, all vacant lands, full market value, all railway rights of way, all GO Transit, hydro—this is still part of the question—municipal parking lots and business taxes will be at full MVA for all new businesses or businesses relocating, would it be your opinion that a significant portion of Metro will be under full market value and that they've been treated inequitably by the way they've classified it?

**The Acting Chair:** Question, Mr Turnbull.

**Mr Turnbull:** I'm a commercial real estate broker, and it would be my observation that it seems that the 1988 values of land that we're transacting were in fact based on a highest and best use. The revenue officials claim that this is not the case. Would you comment as to whether, from your observation of the assessment of your lands, it would appear to be based upon highest and best use?

**The Acting Chair:** Thank you, Mr Turnbull.

The time for your presentation has expired, unless the committee wishes to grant additional time for a couple of minutes to respond, if you could respond to the questions in a couple of minutes. If there's additional information, you could answer the questions in writing for the committee.

**Mr Beales:** I'm sorry, Madam Chair—

**The Acting Chair:** Could you take a couple of minutes and try to answer the questions? Is that possible?

**Mr Cam McCollum:** I'll respond to the first question, and that is with respect to the economics of the development at Southtown.

The negotiations that took place between Marathon and the city of Toronto—and Metro council, for that matter—in determining the conditions upon which those lands could be developed have taken place over a great number of years. During that period of time we have seen property values go up, and as property values went up, the development could offer more and more benefits to the community as there was more profit in the development.

In the last two to three years we've seen property values decrease substantially and now we're seeing a potential of additional costs to the project by way of interim carrying costs on taxation. So the economics of that project are now becoming very marginal.

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**The Acting Chair:** Thank you very much. Any further response in one minute?

**Mr Beales:** Yes.

**Mr Douglas Aitken:** With respect to the second question, it's my opinion that even with the gradual changes that we are hearing about of business properties going to full MVA during the term, there will certainly be a significant portion of properties in Metro that will still be under the capping provisions at the end of the five-year term. So that just perpetuates the inequities as built into this plan.

**The Acting Chair:** What I'd like to suggest is that if there's additional information you'd like to share with the committee, if you communicate in writing it will become part of the official record. Thank you very much for your presentation this morning.

#### YONGE-BAY-BLOOR ASSOCIATION TORONTO AREA BUSINESS IMPROVEMENT AREAS

**The Acting Chair:** I'd like to call next the Yonge-Bay-Bloor Association, Toronto Area Business Improvement Areas. Please come forward and begin your presentation. The clerk will take your brief. This is the clerk.

Begin your presentation by introducing yourself and your delegation to the committee. You have 20 minutes for your presentation. We'd ask if you would leave a couple of minutes at the end for questions, if that's possible, but the time is yours to use as you wish. Please have a seat, speak right into the microphone and don't be nervous.

**Mr John Combs:** I'm not nervous. I'm 72, so I'm past that.

I am John W. Combs, vice-president of TABIA. TABIA is the Toronto Area Business Improvement Areas. I'm a director of the Yonge-Bay-Bloor Association and the Bloor-Yorkville BIA, and I'm president of the arbitrators and mediators institute of Ontario. I'm an appraiser, an expert witness and an arbitrator of real estate disputes.

I'll read, but I'm going to speak impromptu here. This whole matter is mixed with commercial and residential. One doesn't have a darned thing to do with the other, except the horrendous incomes you get off of commercial real estate.

I'm an appraiser. I have talked to 20 or 30 appraisers I know who have done market value appraisals in 1988 and I can tell you, one case you've all read about, and that's La Scala, had an appraisal of \$4.3 million, I believe, and the market value comes in at \$8.4.



We wouldn't be here, in my opinion, if the assessments weren't flawed. I'm talking about commercial, because I really don't get involved in residential. The commercial assessments are seriously flawed and the difference between the way they do the commercials now is quite prejudicial to the small businesses.

I represent 6,000 small businesses, and if they go through this market value the way it's proposed, you are going to have a great collapse in real estate value to these people who have built these estates, to the tenants who will lose their businesses. The bottom line is affected seriously. We've talked to them all over.

I have been involved in the market value assessment reform working group for the city of Toronto for three years before this came down, so I'm fairly familiar with it. The assessments are flawed, and you wouldn't have all these Mickey Mouse solutions if they weren't flawed. If they were correct, they would probably be swallowed right through.

In my opinion, it is a fact that a substantial number of 1988 commercial assessments are flawed. It is my professional opinion that the provincial assessment department has erred seriously. Many reputable fee appraisers of commercial property who concluded appraisals in 1988 were 50% or less than the provincial assessments for 1988. Serious errors.

I represent approximately 6,000 businesses, the majority of which could be wiped out financially, causing a serious loss of jobs. The impact that 1988 market value assessments would have is onerous and, quite frankly, untenable. This dramatic increase in assessment and the resulting taxes will force many businesses and people out of downtown Toronto and possibly out of business. The heart of Metro Toronto is Toronto. It could quickly become a ghost town because of increased rents. It could mean the loss of 10,000 to 20,000 jobs—those are jobs.

Regardless of how MVA affects you, either increase or decrease, be assured the impact of increases will seriously compound the effect of the current economic condition. We're also in the real estate brokerage business in downtown Toronto and I can tell you, it's having a very real affect on rents and is a very real question to all prospective tenants.

Objections to the present MVA appraisals or assessments will result in a backlog of 5 to 10 years in the assessment review courts and the Ontario Municipal Board, thereby necessitating extreme costs to the individual taxpayer, and again to the taxpayer through government expenditures to defend the process, a two-time cost to the taxpayer. Highly unfair.

The result of carrying out the present proposed MVA system could be a second Boston Tea Party. I'm not hysterical; I don't whine. I'm just telling you: beware. As of November 1992, there is a delinquency in tax payments to the city of Toronto of \$271 million. How high will this deficit go if MVA is passed?

Finally, after you review all the data before you, you should recommend a review of MVA and its assessments. That is the primary thing, a provincial and Metro economic impact study. Everybody has walked away from an impact study. What is going to happen? Nobody can tell you what's going to happen. The environmental impact, the economic impact—nobody has done them. Nobody can tell you what's going to happen, so you're working in a vacuum.

You're all sensible people. You all know what I'm talking about. You all ought to recommend that this thing be put off until an impact study is done. A provincial and Metro economic impact study should be completed as to the effect on the commercial tax base. In addition, the loss of real estate values, the loss of jobs should motivate the present NDP government towards a serious look at the MVA.

I'm just going to give you a little example of what happened. In 1984 you had assessment set out. Thirteen of the major buildings downtown had a 69.5% increase in their taxes. It would have been devastating. When it comes out to 1988, they don't have the impact at all. It's the small businesses that have the impact. You people all come from areas where small businesses are a very vital part of any real estate in any community. These people will be very seriously affected.

I recommend that you recommend to the Legislature that we withhold doing anything on MVA at the present time. If you don't, you recommend that we have caps on it, because there aren't any caps in the law as it's written right now, as I understand, and that you cause impact studies to be done, because I think we will have a dreadful effect. In my opinion, we're going to have five years of this downhill. It's going to be worse and worse and worse. You haven't seen anything yet.

Looking around the room, I don't see anybody who was 20 in 1940 and went through the last depression. I know what it can be, and it can be the same thing here. You can't buy your way out of everything, I'll tell you.

So you're going downhill. You've got five bad years ahead of you, and you better do everything you can to help these people. These are hard workers, these retailers and small businesses.

That's all I've got to say, and I should hope you would support our 6,000 businesses.

**The Acting Chair:** Thank you very much for your presentation. Question, Ms Poole.

**Ms Poole:** How much time do we have?

**The Acting Chair:** There are approximately seven minutes remaining.

**Ms Poole:** To be divided equally?

**The Acting Chair:** Yes.

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**Ms Poole:** Mr Combs, I really want to thank you for your presentation. You have very articulately outlined the difficulties with what the government is doing in rubber-stamping Metro's plan. You've not only talked about the deficiencies in the plan itself, you've talked about the lack of impact studies on small business. You've talked about the shift away from large commercial properties on to the small businesses and how this will be the straw that breaks the camel's back. You've talked about the difficulty the city of Toronto's already having with delinquent taxes.

I only have time for one question, so the question I would like to ask you is about your statement in your written brief about the substantial number of the 1988 commercial assessments being flawed. Using 1984 values, all the big office towers and big commercial developments went up significantly in taxes. You're talking about 50% tax increases.

**Mr Combs:** It's 69.5% downtown on the 13 major buildings.

**Ms Poole:** This happened under 1984 values. The major office tower owners were launching a huge campaign to fight against this.

**Mr Combs:** They did.

**Ms Poole:** And lo and behold, when the ministry figures came out, using 1988 values, not only did they not get an increase, in many cases they got a substantial decrease.

**Mr Combs:** They did.

**Ms Poole:** How can one rationally explain this away, unless how they did it was flawed, unless it was a politically cooked-up solution?

**Mr Combs:** I believe they have power politically, as we all do. They're the financial group in the city. That isn't the point. The way they judge they're going arrive at what the tax is going to be is that they look at the commercial differently than the small commercial. They approach them differently. I can't remember whether they gave them a 25% vacancy rate. They did it differently so they arrived at a figure that was even or below.

The little guy didn't have any change. I can give you an example. At the corner of Sultan and Saint Thomas, Jasmac is building a hotel on Charles Street and bought the little corner that used to be Morlands furs or Morlands sheepskin coats, or whatever it was, because it needed it for the entrance. They needed to have the right of way there. On that basis, the rest of them were all assessed the same way, which is incorrect. You have \$50,000 incomes with \$1.5-million assessments. It's ridiculous. So you must do the same on commercial all the way through, which they didn't.

**Mr Turnbull:** Mr Combs, you are an expert. It may interest you to know that your member, Zanana Akande, was at question period yesterday but didn't show up for the vote immediately afterwards on market value, even though she campaigned as being against it.

My question to you as an expert is, would you not say it's probable that the Ministry of Revenue, despite what it claims to the contrary, based the assessment on small properties, based on highest and best use where there was higher density available—

**Mr Combs:** No. It appears what they did, Mr Turnbull, is that they took sales, took that value, broke it down and carried it on with the rest of the street, regardless of what the incomes were.

**Mr Turnbull:** Were their sales sustainable on the long-term basis?

**Mr Combs:** Well, if you have an assembly, which is what I'm talking about, they're going to overpay for something to get that because it's important.

**Mr Turnbull:** But if you're doing an assembly, it's for the highest and best use for higher density, is it not?

**Mr Combs:** It should be, yes.

**Ms Anne Swarbrick (Scarborough West):** Mr Combs, you put forward an excellent presentation. Thank you. It seems to me the major area you're pointing out as being a problem is your belief that the 1988 assessments are seriously

flawed. For that reason, actually, I was originally going to ask you, is the appropriate route to correct that not in fact to have those appealed? I see you were anticipating that in referring to the kind of gigantic backlog that would mean.

My question would be, if you know of sufficient examples of cases where the 1988 assessments are flawed, would you not in fact see that some of that specific information should be sure to be put before the minister in terms of whether there should be some triggering of reassessments, rather than necessarily throwing out Metro's process?

**Mr Combs:** First, it's two-party confidential: the party that had the appraisal made and the appraiser. They're bound. I would have thought they would have called in outside appraisers to do the appraisals for assessment, not a bunch of people who just did what they wanted to do.

I deal with them. I do tax appeals, and I've been reasonably successful with tax appeals. They've got to be bright. You've got to prove that they're wrong, but do you know the expense to little businesses of going to the Assessment Review Board? Not knowing anything about it, they have to get a lawyer. Then if they have to appeal again, they go to the Ontario Municipal Board. Who's paying for both sides? The little guy is. He's paying his own costs and, as a taxpayer, he's paying the rest of the cost.

What would you do? Flood the assessment review court with five more years or 10 more years of work? They're two years behind now, I believe. I don't understand what the point is. Everybody can say, "You have an appeal," but if the assessments were done correctly, I don't think we'd be here.

**Ms Swarbrick:** It sounds like you would also, therefore, be happier to see a system of taxation where large items, like education, aren't funded through the property tax system that creates this mess, but rather funded through an income tax system. Is that correct?

**Mr Combs:** I just think we're overloaded on land and buildings right now. We can't afford it. It's getting to the point where it's ridiculous.

**The Acting Chair:** Thanks very much for your presentation. We appreciate you appearing before the committee this morning.

**Mr Combs:** Thank you.

#### DEER PARK RATEPAYERS GROUP

**The Acting Chair:** I'd like to call next the Deer Park Ratepayers Group. Your presentation has been circulated to the committee. You have 20 minutes for your presentation. Please begin by introducing yourself.

**Mrs Katherine Packer:** I'm Katherine Packer, president of the Deer Park Ratepayers Group. I should like to begin by thanking the members of the standing committee on social development and, through them, the Minister of Municipal Affairs for giving me this opportunity to express my views, and those of most residents of Deer Park, regarding the proposed bill.

One of the steps taken early in this government's period in office was to set up the Fair Tax Commission. I can think of no other single act that has earned the government more widespread approval from its constituents all over the province.



The fact that the property tax was explicitly added to the mandate of this commission encouraged the belief that the government was seriously committed to property tax reform. Citizens all over the province made submissions to the commission, many of them concerning market value assessment. Members of the general public have also served on the commission's working groups.

I point out that I have been a member of the property tax working group, and I do so because I don't want to be accused of lack of candour, but the views I express this morning are my views and those of my neighbours; they are not intended to be representative of those of the working group. There will, I hope, be some coincidence.

Members of the general public have also served on the commission's working groups. They have given generously of their time and talents on the assumption that the government would be as committed to the work of this commission as were the members of the public. More important even than the extensive public consultation is the innovative research being carried out for the commission to investigate the fairness of the current tax system and to examine alternatives to it.

It has been a profound shock to all those who had put their faith in the work of the Fair Tax Commission to learn that the government is prepared to make a decision on an issue as important as the introduction of MVA in Metro without waiting for the report of this commission. Not only has the decision been made without the benefit of the commission's recommendations, but this action on the part of the government undermines the credibility of the commission itself. What we had hoped for, what we had been led to expect, was a program of genuine tax reform. Instead, unless the government can be persuaded to rethink its current position, what we will get is, to quote the Minister of Municipal Affairs, "a small step towards market value assessment."

It has been argued by the minister himself, as well as other members of the government, and most recently by a member of Metro council, that what is being introduced is not MVA. All the evidence, however, supports the contention that it is MVA. The assessment figures prepared by the assessment branch of the Ministry of Revenue based on 1988 values are market value assessments. Whether or not a home owner will receive an increase or decrease in the taxes he will pay in 1993 and 1994 will be determined by whether his 1988 market value assessment is higher or lower than the assessment on which his 1992 taxes were based. The figures that will appear on the assessment rolls for all of Metro, including the city of Toronto, beginning in January 1993 will no longer be the assessments on which the 1992 taxes were calculated. They will be the 1988 market value assessment. As matters stand, if Metro's proposal is approved without emendation by the government, at point of sale full market value reassessment will take effect on residential properties of one to two units. Finally, full market value takes effect January 1, 1993, on certain types of properties, such as vacant land, and we have heard eloquent presentations in the last two days on that "other" category of property.

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What further evidence is required to prove that the interim Metropolitan Toronto reassessment plan is market value assessment? Certainly the members of Metro council, both those who supported it and those who opposed it, did not doubt for a moment that the issue they were debating was market value assessment. It may be a small step, as the minister has stated, but it is a step in a process that will, in my opinion, inevitably lead to full market value assessment being implemented in Toronto in spite of unanimous opposition on the part of Toronto's own council.

Metro council could not impose market value assessment on Toronto without passage by the government of enabling legislation. The government has taken the position that it must respect the rights of a local municipal council to make its own decisions. But the city of Toronto at present has the right to make its own decision, a right which the province is taking away from it by Bill 94. If it is a question of accountability, the city of Toronto is accountable to 635,000 citizens. True, other regions have been given the right to make such decisions, but consistency for its own sake is certainly not a virtue.

The city of Toronto is adamantly opposed to the introduction of market value assessment for reasons most of which have already been covered in the debate in the Legislature and with many of which members of the government agree. I would like to review briefly those that are of particular importance to residents of Deer Park.

While the argument at the present moment is over the method of assessment, there is a more general problem with the property tax itself. The reason the property tax is so important is that it raises so much revenue. It is second only to the income tax in Ontario in its revenue-raising capacity. It is estimated that in 1993 property taxes will bring in about \$15 billion. The average taxpayer thinks property taxes should pay for services such as water and sewage, roads and fire and police protection. But more than half of the property taxes paid in Ontario go to support education and other social services.

When a tax raises a very large amount of revenue, the question of fairness becomes very important. What do we consider fair with respect to such a tax? Our society generally regards a tax as fair if, like the income tax, the tax burden is shared in such a way that those with higher incomes pay higher taxes and those whose incomes are lower pay lower taxes.

How does the property tax measure up according to this standard? It is intuitively obvious that for wealthy people who own large homes their property will represent only a small proportion of their equity. The bulk of their wealth will be in other investments. People with moderate income will, on average, have a larger proportion of their wealth tied up in their property than the very rich. For poor people who own their homes, those homes may represent virtually all the worldly wealth they have.

The property tax is in effect a wealth tax on only one form of wealth, namely, property, and it takes no account of liabilities. It follows that poor people, while they may pay lower taxes than rich people, will pay much higher taxes proportionate to their incomes, which is the exact opposite of the principal of a graduated income tax. The fundamental

weakness in the property tax is that it is unrelated to ability to pay. Its appeal to tax collectors lies in the fact that property cannot be moved or hidden, and thus the tax cannot be easily be avoided.

Similarly, one does not need the assistance of the Fair Tax Commission to identify the flaw in using market value assessment as a basis for property taxation. At the time an individual purchases a house, it is reasonable to presume that he has the ability to finance the purchase, and it is reasonable for a purchaser to assume that his taxes will increase gradually over time. But assessments based on market value are directly affected by a volatile real estate market. In the space of a few years, property can double or treble in value. The very wealthy are in a position to adjust to such swings, but not a person in moderate circumstances.

Market value assessment, as it is being proposed, has other negative features. Those who support MVA make the statement that MVA is easily understood because everybody knows the value of his own house. This may be true, but there is very little necessary relationship between what an individual thinks his house is worth and its market value assessment.

Metro published an explanation of its interim reassessment plan in the November 30 issue of the *Globe and Mail*. Market value is defined as: "The most likely selling price between a willing buyer and a willing seller in an open market. It is not the actual sale price." The formula used by the assessors is much more complicated than Metro's definition implies. Sales records form a part, but other factors play a much more important role in determining the final figure.

Many Deer Park residents have been unable to find any relationship at all between the value of their house and its 1988 market value assessment. Even more difficult to understand is the relationship between the assessments on neighbouring houses. In our case, we have a house next door that is smaller than ours and lacks a garage. It is in every way, in our view and in their view, a less valuable house, yet our assessment is lower than their assessment. There are many worse, more interesting examples which I won't waste time on.

The incomprehensibility of market value assessment is, in itself, one of its flaws as a method of assessment. It is also an expensive system to maintain. Because market values are not stable, it requires frequent updating. Because the basis on which the assessment is made cannot readily be verified by the taxpayer and the assessment itself therefore can appear arbitrary and unfair, appeals are likely to be frequent and costly both to the taxpayer and to the government. It is pointed out that the taxpayer ultimately supports the government as well.

The proposition that properties of the same value should pay the same property tax is open to question when the value is determined by market value assessment. Why should a small house on a narrow 25-foot lot with no garage in Deer Park pay the same tax as a large house on a large 150-foot lot with a three-car garage in the suburbs? It will cost six times as much to provide roads and sewers for the large house. The small house will cost far less to service, and it satisfies the government's planning objectives with respect to intensification of housing. Market value assessment rewards urban sprawl. It encourages wasteful use of property for housing and uneconomic provision of municipal services.

There are two other types of inequity inherent in the proposed Metro interim reassessment plan which I would like to touch on briefly. The whole point of the plan is to redress inequities suffered by the owners of single residences in Metro that are overassessed relative to the single-residence average. Even under the present circumstances, such home owners are significantly underassessed compared to tenants, and Metro's interim reassessment plan does nothing to redress the injustice of the current property tax system with respect to tenants.

A significant proportion of tenants are among the lower income groups, yet tenants currently pay property taxes at three times the rate that owners of single residences do. Even the first small steps that are proposed in this bill can affect tenants adversely. Landlords of 117,000 high-rise apartments will have to pay more taxes, and these increases will be directly passed on to tenants. Furthermore, there is no assurance that tax decreases will be passed on to tenants. This point alone would justify the government in rejecting Metro's interim reassessment plan.

The other inequity I wish to mention is that affecting commercial and industrial properties. We are currently in the most serious recession this country has seen since the Great Depression. Small businesses have been failing at an alarming rate with the present level of taxation. In the current economic climate, there is no way of knowing how serious the impact of the proposed 25% increase in taxes spread over three years will be. The fear that it will result in more failures and bankruptcies seems well founded. The risk is to small businesses all over Metro, not merely in Toronto, but Metro councillors and the provincial government are choosing to turn a blind eye to this aspect of the problem.

Toronto has earned its reputation as a safe and livable city because of its small residential neighbourhoods such as the one I represent. Within a comparatively few city blocks, a wide variety of income levels, ages and lifestyles are to be found. Retired couples live next door to families with young children. Many of the houses sport Neighbourhood Watch signs. Composting and recycling are taken seriously. Street parties are held annually on some streets, a sense of community is manifested in many ways, and residents are aware and proud of the history of Deer Park.

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If full MVA is implemented in Metro, the impact on the city of Toronto as a whole will be disastrous and neighbourhoods such as Deer Park will be the first to be destroyed. Neither the young families nor the couples living on pensions will be able to afford the taxes. They will be the first to move out. The small houses will be replaced by monster homes which only the rich can afford. This pattern will be repeated throughout the city until no one will be left but the very rich and the very poor. One has only to visit one of the once-great American cities such as Los Angeles or Detroit to get a picture of what is in store for Toronto if market value assessment is implemented.

It is not difficult to point out the weaknesses of market value assessment and the inherent danger in a tax system based on it. For that we do not need the Fair Tax Commission, but the challenge of proposing a fair and equitable alternative is another matter. That is the task the commission has



tackled. No changes in the tax system should be approved until the Fair Tax Commission has made its report and there has been an opportunity to study its recommendations.

The Minister of Municipal Affairs is not unaware of the risk to Toronto; he has said as much himself. He has asked us to accept his assurance that his government would not permit Metro to implement full market value assessment. I do not question the minister's good faith; I question any government's ability to make good on an undertaking such as this.

I question whether Metro will avail itself of the opportunities which Bill 94 affords, and will indeed pass bylaws to provide caps for the categories that, under the present proposal, will be on full MVA based on 1988 values as of January 1, 1993. I have even less doubt that Metro will pass the necessary bylaw to remove caps from houses at point of sale, the government's protest notwithstanding.

It comes down to a question of the order in which things are to be done. There are powerful forces that favour market value assessment. Approving Metro's interim reassessment plan may seem as only giving away a few inches of ground, but in fact it is the abandonment of a principle.

The current proposal under discussion does nothing to address the real inequities in Metro's system of property taxation. In some instances, as outlined above, it will tend to increase existing inequities. The government has never officially reversed its position against market value assessment, which is clearly stated in its 1984 party platform. Its only responsible course of action is to reject Metro's current proposal and wait until the Fair Tax Commission has made its report before it embarks on tax reform.

**The Acting Chair:** Thank you very much for your presentation. There's five minutes in total remaining. I'd ask the members to keep their questions short.

**Ms Swarbrick:** I'd mostly like to say thank you very much. You've presented an extremely thoughtful and very knowledgeable presentation. Those are exactly the kind of things we need to be thinking about as we move towards what's going to happen in 1998.

I want to point out in the one area, in terms of tax decreases being passed on to tenants, that as you might have heard, Bill 94 in fact will allow for either Metro to make the request for the decreases to automatically be passed on to tenants by reducing the maximum rents, or if they don't do that, we have written into the bill an ability for even one tenant in a building to apply to the rent control office for the reductions and that would then be applied to the rest of the tenants in that building.

I just want to pass that on, but otherwise to say thank you for a very thoughtful contribution to what has to take place, if not for this immediate round, then at least for the next round for sure.

**Ms Poole:** Thank you for your presentation, Katherine. It's obvious you were a big help to the Fair Tax Commission. It's just unfortunate that the report will not be implemented before going ahead with this scheme.

On page 2 of your brief you rightly point out the inconsistency of the government with addressing this issue as MVA. The minister has said it's not market value. I have Hansard here, where the parliamentary assistant is quoted twice as

saying this is not a market value plan. If it is not a market plan, what is it?

**Mrs Packer:** Since I believe it is a market value plan, I won't attempt to describe it. If you will consult Hansard, you will see that the Minister of Municipal Affairs himself identified it as a market value plan, because he said it was only a first small step towards market value assessment.

The word "honest" occurs to me. It is not quite honest to make claims that it is not market value assessment.

**Ms Poole:** Unfortunately, your point of view isn't being represented in the Legislature by the government, because your NDP member, Zanana Akande, chose not to show up for the vote, which is unfortunate.

The other question I have to ask you is about homes going to full market value at the point of sale. I am very concerned that what the minister has done by requiring—not forbidding—Metro to pass a bylaw is just a camouflage, because Metro has voted three times, over the protests of city of Toronto Metro councillors, to put this in. Do you have any faith, do you have any idea that Metro council might change its vote this fourth time, or are you convinced that it will go through unless the province stops it?

**Mrs Packer:** I attended the debate at Metro council and participated in it before this vote was cast on the present plan, and I can only say that I saw no evidence to lead me to have any confidence at all that if they were to proceed with this bill, they would not pass a bill to remove the caps at the point of sale. I am confident that is going to happen. Now I am a private citizen, I'm not here as an expert witness, but that is my belief.

**The Acting Chair:** Thank you very much for your presentation today. We appreciate your appearing before the committee.

**Mrs Packer:** Might I say I appreciate being invited to come.

**The Acting Chair:** I'd like to call next O'Shanter Development Company. Please come forward.

**Interjection:** No answer.

**The Acting Chair:** I'd like to call next the Bloor-Yorkville Business Improvement Area. Is there anyone here from the Bloor-Yorkville Improvement Area?

**Mr Combs:** I'm also from there. Dick Wookey was going to speak this morning and he hasn't arrived yet. I thought Dick would be here.

**The Acting Chair:** Is he planning to attend, do you know?

**Mr Combs:** I'm a director.

**The Acting Chair:** But is he planning to attend?

**Mr Combs:** He was planning to attend.

**The Acting Chair:** Well, then we'll wait. His time is not scheduled until 10 more minutes, so we'll wait for him.

**Mr Frankford:** I believe Mr Wookey spoke last night as part of another delegation.

**Ms Poole:** Madam Chair, on a point of clarification: Yesterday Mr Wookey attended as a member of the confederation of ratepayers groups, which is a large umbrella group of many ratepayers throughout Metro. Today he would be appearing as a member of his own group, which

is the Bloor-Yorkville Business Improvement Area. I don't see any problem with the fact that there is a large umbrella group and then there is a smaller umbrella group representing different people.

**The Acting Chair:** Order, please. It has been the practice of committees, when inviting delegations or deputations or having requests from organizations and associations, to allow the group to choose whom it wishes to speak on its behalf. I would suggest that we continue with the tradition, and when I call the group and it is their allotted time, they will decide who speaks for them. If an individual appears before the committee more than once on behalf of several different groups, that's the responsibility of the group or the organization and not the judgement of the committee. So we won't have any debate or discussion at this time.

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MIKE BOYCHYN

The next delegation that has been scheduled is not here yet. Is Mike Boychyn here? Would you like to come forward if you are ready for your presentation? I haven't skipped the others. For anyone who is watching, they will have an opportunity, but since Mr Boychyn is here, he has 10 minutes for his presentation.

Would you begin now, please. I hope I have pronounced your name correctly. If I didn't, please let us know how you pronounce it.

**Ms Poole:** Just a point of information, Madam Chair: I wondered which group on the list Mr Boychyn is representing.

**The Acting Chair:** He's here as an individual. Individuals are allotted 10 minutes of time and he has replaced, in the schedule, Isabel and David Manore, the 11:30 delegation.

**Ms Poole:** So this has been a substitution by the clerk.

**The Acting Chair:** Yes.

**Mr Owens:** Just in terms of the group that is not here at this point, is it your view that it's forfeited its time, or will it be—

**The Acting Chair:** The clerk will contact them to see if they're coming. If we can accommodate them, we will. They've missed their time, but—

**Mr Owens:** We have a pretty tight schedule.

**The Acting Chair:** That's right, so we'll have to see and the committee can decide.

Please begin your presentation now. You have 10 minutes.

**Mr Mike Boychyn:** This has been on quick notice, and I have a copy of my résumé I would like distributed later on, if I may, please.

Members of the hearing committee, my name is Mike Boychyn. It is not Alan Wood, as the Toronto Star would have you believe in yesterday's paper. It is nice to be able to make our presentation to someone who will listen. On previous occasions we have either been drowned out or even crowded out. That, though, does not resolve anything. Neither does apprehension. There is always apprehension before a change takes place, as in this case. I have attended here for the last two days, and each time I went home, I rewrote and added to my presentation. How long can this go on?

We should not allow this hearing to degenerate to the crying-towel stage. I, for one, have great difficulty and suspicion about people who come on strong with the impression and delivery of the attitude that the sky is falling. This seems to be the case at times in this discussion of market value assessment. These people are either afraid of something or have something to hide. Their emotion should never stand in the way of rational analysis and possibilities. We should not shy away from coming forward with the possibilities and the exposure that market value assessment may provide.

There is an absence of any other outright proposals. Any proposal that would be worthwhile would without a doubt have appeared before us now, let alone getting lost. These may no more be lost than the people seeking them. No time is ever right in some people's minds, so they just play for time. I repeat, we have no reason to shy away from market value assessment. It is merely an honest attempt to raise and meet our financial obligations to provide the maintenance and service we require for efficiency and cleanliness in our cities.

If we start crying about our tax burden, the alternative is to cut back on our lifestyle and our expectations. It is redundant to ask, as some do here for political points, what is market value assessment? Market value assessment as a yardstick: A yardstick in this case is much more efficient than going about it by inches and fractions. The unit assessment which has been suggested may prove in the long run far more costly and the same or similar assessment value from that of an MVA analysis. I hope it is not just a stall.

I also resent the idea of imposing the legislative atmosphere by demanding the presence of ministers at the citizens' hearing. His presence should just be a courtesy and not an attempt to embarrass him. MPPs have that chance in their legislatures.

There may well be unusual situations of pricing and assessment inherent in our old assessment in downtown areas as well. The whole purpose of this reassessment process is to bring all disparity to light. Let us not extinguish it, or any other light; darkness we have now.

I spoke to one property owner who opposes market value assessment. This person had property in downtown as well as in the outskirts. He thought it was a threat when he said he was going to withdraw his tax rebates from his suburban property if MVA went through. My response was that this is exactly what the supporters of property value assessment want you to be able to do.

This old assessment is like an old car. It has been running downhill all the way. We should all know there is a limit before we have to change to a newer model. We should certainly all get a more comfortable ride. This assessment effort is not to intentionally pit the downtown area against the suburban area. Let us act like adults. We wish you nothing but continual health, to which we have certainly been contributing and will continue to do so, but our health and justice is also imperative.

We can now put our grievances into a little computer that will give us all the answers. They may not always be the answers we want, but a whole review and appropriate changes now will settle a lot more strife later on. Just as a white South African enclave in downtown Toronto would not be appropriate, this would challenge our justice system and



our charter. The injustices against our native people have become an unwelcome international exhibit. If we exchange our subsidy for your claimed subsidy to us, maybe we will be more able to contribute to our educational expenditures in this give-and-take spirit.

If your downtown is not the Shangri-La some of us envision it to be and you wish to unload your burdens, then I'm certain everyone in Scarborough will welcome you to share with us. We have lots of empty stores as well. Scarborough has been referred to by Mayor Rowlands as an expensive sprawl. Let us not forget that Toronto downtown was once an urban sprawl. Our suburbs are not selfish about supporting the sprawl beyond our boundaries. We welcome them as neighbours. That applies to all Canadians.

**The Acting Chair:** Thanks very much for your presentation. We have five minutes remaining and three questions; there's probably time. Ms Poole, you're first.

**Ms Poole:** Thank you for your presentation today. I know you've been monitoring these hearings very closely.

The minister has said that this is Metro's plan and that it is not MVA. The parliamentary assistant has said this is not an MVA plan. In your opinion, is this plan that is before the Legislature right now a market value assessment plan?

**Mr Boychyn:** Their concepts may be different from mine, or ours, but I have no hesitation in describing it as a market value assessment plan. We think it'll be the most fair yardstick by which to assess our properties both downtown and in Scarborough, and the outskirts throughout the province, as has already been done.

**Mr Turnbull:** Mr Boychyn, I'm hard pressed to understand why you're saying that a unit assessment scheme would be more expensive than MVA. The cost of the reassessment for Metro was in excess of \$11 million. It's mandated, under market value, that it should be reassessed every four years. In the case of the Muskokas, in fact, when they wanted to skip a reassessment, provincial legislation was brought in to force them to do it. It's been estimated that it costs something like \$200 million a year to run market value assessment in this province. Why would you say that unit assessment would be more expensive? What do you base that on?

**Mr Boychyn:** Measuring anything by inches rather than yards certainly takes a lot more time, dedication and man-hours. There's no question that individual assessments on properties would be time-consuming. It would be useless, because a home and its valuation is dealt with on the basis of its amenities, whatever is in the home.

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**Mr Turnbull:** But with unit assessment you measure once and then it doesn't change ever again, unless you add to it.

**Mr Boychyn:** It deserves an update the same as market value assessment would, otherwise it will become obsolete.

**The Acting Chair:** Question, Mr Owens.

**Mr Owens:** Mr Boychyn, I want to thank you for your presentation. As a member who represents a riding in Scarborough, I'm pleased you're here to talk about some of the issues that we as Scarborough residents face.

Some groups have suggested that perhaps we should take a tour of the South Bronx to see the impact they're predicting

as a result of market value assessment. In terms of my own riding and some of my colleagues' in Metro, I don't need to go to the South Bronx. I take a look at some of the results of the neglect of former governments, both Tory and Liberal, in terms of their tax policies. They're the people who have caused the problems that we currently face. We're now trying to fix the mess that's been handed down from generation to generation. Again, I'm pleased that you're here to support this bill and support the long-range cleanup of these problems.

**The Acting Chair:** We really appreciate you appearing before the committee today. I want to thank you—

**Mr Boychyn:** May I make a point with regard to the Bronx?

**The Acting Chair:** What I'd suggest you do is discuss it with him in the hall, or you can write to the committee. But your time has expired and there are other people waiting to present. Thank you very much for appearing before the committee today.

#### O'SHANTER DEVELOPMENT CO

**The Acting Chair:** I'd like to call next the O'Shanter Development Co. You have 20 minutes for your presentation. Please begin by introducing yourself to the committee. If you would leave a few minutes for questions at the end, we would appreciate it. The committee has received your written communication.

**Mr Jonathan Krehm:** Thank you very much, Ms Caplan. My name is Jonathan Krehm. I'm one of the owners of the O'Shanter Development Co. We own and manage some 2,800 apartment units in Metro Toronto and some 400 apartments in Calgary and Edmonton.

I'm here to speak on behalf of my tenants. I have no direct economic interest in the issue of market value assessment. Our anticipated changes as a result of MVA would be small reductions of taxes, which would be passed on to tenants.

The real issue here is inequity and the hypocrisy of both the current and the proposed assessment regimes. I find it quite incredible that the current government, which poses as the protector of tenants, would not have addressed the biggest single economic discrimination against tenants in this province, which is the assessment regime that we have currently and which you propose to keep. What has been proposed will keep an inequity by a different class of assessment for apartment buildings that means apartment dwellers pay two and a half times the taxes that single-family home owners pay. There is no difference of class for industrial that's proposed, or for commercial. The only reason this inequity has not been addressed is because of the politics of the situation. I find it quite upsetting that this inequity would be kept.

Roughly 25% of the rent of my Metro Toronto tenants goes to pay property taxes, some \$1,800 per year per unit. In Calgary, where we have newer apartments, worth more money, with higher rents, 12% of the rent goes towards taxes, and the taxes are 50% of what they are in Toronto. They're roughly \$850 per year.

I have brought copies of form letters which were sent to Premier Rae from 186 of my tenants urging the government to rectify the property tax injustice that is suffered by all

Metro Toronto tenants. All residential properties should be assessed at the same rate. Thank you very much.

**The Acting Chair:** Thank you very much for your presentation. Mr Turnbull.

**Mr Turnbull:** I thought I would be last.

**The Acting Chair:** No, in the next rotation you're first. What I've been doing, just for everyone's information, is rotating through the caucuses.

**Mr Turnbull:** Fine. Mr Krehm, this inequity has existed for a long time, and it seems to me that there has never been, and probably never will be again, as good a time to adjust it. There was a request made by Metropolitan Toronto that the government address this inequity, and it's seen fit to do nothing about it. Could you expand on that a little?

**Mr Krehm:** I think it was shocking that this government would not address that issue when requested to do so. The only reason Metro Toronto did it is because of the 5,000 tenants—and the 186 names I'm bringing forward to you were part of that group—who petitioned Metro Toronto and then went on to do the same to Premier Rae.

**Mr Turnbull:** Typically, how many months' rent is consumed by taxes per year?

**Mr Krehm:** Three. And that is double what other Canadian citizens pay as a portion of property taxes, Canadian citizens who are tenants. What we have here is a discrimination against people because they're tenants, and the only reason we have it is because tenants don't know they pay the property taxes.

**Ms Swarbrick:** Mr Krehm, in the recent controversy around the whole area of property tax in Metro, I think one of the silver linings of the recent controversy is the fact that this long-standing inequity has come to light. Certainly I, and I know most of my fellow caucus members, didn't know about this kind of inequity until this recent controversy. Certainly our government is committed to looking towards the next assessment period and what could be done. It's obviously not something that, after decades of existing like this, can be immediately turned around, because the amount of money you're talking about has great implications on the rest of the system.

My question to you is, if and when our government is able to introduce the kind of fairness in the system that would remove this kind of inequity, would you be in support of maintaining rent controls to ensure that when that tax fairness for tenants comes, landlords don't eat up that deduction in rent by moving into that space created and charging higher rents? My question to you is, will you support the maintenance of rent controls at the time greater tax fairness is brought in for tenants to make sure they don't again lose that money through higher profits to landlords?

**Mr Krehm:** No, I would not support continuing rent controls, because rent controls are another form of discrimination against tenants for the benefit of politicians, as this present form of discrimination is. As I pointed out, in Calgary, where there are no rent controls, our tenants pay less rent for bigger, better apartments, and there are far lower property taxes.

**Ms Swarbrick:** So Mr Krehm, is your interest in appearing before us today not to help bring down the tax to your advantage?

**Mr Krehm:** That's absolutely a false characterization of my testimony. Under the present system—and we know full well that at least for the near future that system will be in place—there would be an automatic reduction of rent that would flow through to tenants of any reduction in taxes due to reduced assessment. That's the situation we have, and to talk about what may happen five years out and whether I would support that is just a red herring, quite frankly, Ms Swarbrick.

**The Acting Chair:** Ms Poole, you have the floor.

**Ms Poole:** Thank you very much for your presentation today. You said it is shocking that the government wouldn't respond to Metro's request to redress the unequal situation between home owners and tenants. You might be even more shocked to find out that yesterday I asked a question of the Minister of Municipal Affairs—with the permission of the witness who was there at the time, because it's the only way we could get a question to him—to ask him whether he planned to redress this inequity. His answer was that it was Metro's plan, Metro's problem, and I should address my question to Metro. The Minister of Municipal Affairs, who has responsibility for carrying this legislation, did not know that, first of all, assessment is a provincial responsibility. Second, he didn't know that, under section 63 of the Assessment Act, it provides regulation that prescribes the classes which perpetuate the inequities you talked about. May I ask you, are you shocked that the minister would have no idea? Don't forget this is a former Minister of Housing who purports to have protected tenants. He was unaware of this issue.

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**Mr Krehm:** Having had the misfortune to have had dealings with Mr Cooke in the past, I am saddened to hear that would be his response. I am not shocked.

**The Acting Chair:** There's time for additional questions if any member wishes to pursue—

**Ms Poole:** Could I pursue this avenue?

**The Acting Chair:** Mr Turnbull, did you have another question?

**Mr Turnbull:** Yes. Given the fact that this is based upon a supposed market value, do you not see significant skewing, to the extent that if a building has already got high rents—let's say it went through rent controls prior to the changes that the NDP made and it has a higher income stream. Based upon that higher income stream, today it would have a higher market value; therefore, it would be subject to higher taxes. Is that not correct?

**Mr Krehm:** It would be, and if there was no correction of the skewing by difference in classes, yes.

**Mr Turnbull:** Exactly. So the government further penalizes the people who are already paying higher rents.

**Mr Krehm:** It's worse than that, Mr Turnbull. I can tell you that the supposed market value assessment—on a 1988 basis, on one of our properties we got a proposed market value of \$57 million. I have an appraisal that was done in 1988 on the property; it was worth \$43 million at the time.



It's completely out of whack. It's got nothing to do with market value, it's some bureaucratic estimation for their own purposes of what a system would be like.

**Mr Turnbull:** And this by a government that says it wants to protect tenants.

**Mr Krehm:** Exactly.

**The Acting Chair:** Further questions from the government caucus? Ms Poole, question?

**Ms Poole:** The city of Toronto placed a full-page ad in the Toronto Star last week. It stated that as a result of this plan 117,000 landlords will be entitled to ask tenants for a rent increase because of market value. They also make the point in this ad that if Metro had fully equalized taxation rates for all classes of residential property, only 1,200 apartments, instead of 117,000, would get an increase. In other words, if Metro's MVA scheme taxed apartments at the same rate as houses, 99% of 117,000 tax increases for high-rise apartments would vanish. Did you have an opportunity to present to Metro council on this issue?

**Mr Krehm:** Yes, I did.

**Ms Poole:** Were you surprised at this last-minute addition? Because right up until the 11th hour there were not going to be tax increases for those home owners or tenants under this MVA plan.

**Mr Krehm:** I haven't followed what the exact changes are. I don't know. It's very confusing trying to get what the proposed assessments are, because you're given two numbers. Our own properties happen to have been minor decreases, but they're small. They're 1%. The rents will be slightly adjusted. If there were increases in that magnitude, it's not in the realm of the legislation to get to pass any of that on.

Just because I've reviewed it on an annual basis, I don't think our assessments are such that they fall in the extremes. We're somewhere in the middle and I don't think we're affected by it. The whole way this matter has been dealt with—there is some rationale to revising and reforming the assessment system, but what we have here is a skewed political compromise. The logic it purports to be carrying out doesn't quite work. It's been tampered with because of the politics of the situation to make something that's almost as grotesque as what it's replacing.

**Mr Owens:** It's unfortunate that this issue has reached the level of partisanship that it has. As it has, let me take an opportunity to continue that thrust.

**Ms Poole:** We are so pure—

**Mr Turnbull:** This is from a government that campaigned against MVA.

**The Acting Chair:** Order.

**Mr Owens:** Let's take a look at members of the Liberal caucus, like Elinor Caplan, Joe Cordiano, Alvin Curling; the Tory House leader, Ernie Eves; Gerry Phillips, Scarborough-Agincourt; Bill Murdoch, Grey; Bob Runciman; Chris Stockwell; Noble Villeneuve, all Tory caucus members and Liberal caucus members who stood up and voted yesterday to approve second reading of market value assessment. Yet the members for sanctimony and hypocrisy over on the other side sit there and suggest—

**The Acting Chair:** Order. Mr Owens, this is a time for asking the deputation a question, not making a speech.

**Ms Poole:** Madam Chair, on a point of order: A very misleading statement was just made, because it didn't refer to the majority of both Liberal and Conservative caucuses that voted against the plan.

**The Acting Chair:** Ms Poole has the floor and has the opportunity to state what her point of order is. I haven't heard a point of order yet.

**Ms Poole:** The point of order is that a misleading statement was made which should be corrected for the record—

**Mr Owens:** I'd suggest you withdraw that comment.

**Ms Poole:** —and that a majority of Liberal and Conservative members voted against the plan.

**The Acting Chair:** Ms Poole, that is not a point of order, and terms such as "misleading," similarly "hypocrisy," and other words are unparliamentary and not appropriate for a committee from either side.

I would suggest that to this point in time this morning the hearings have gone quite well, in a civilized manner, and I would encourage all members of the committee to respect the rules of procedure, both of the committee and of the Legislature.

Thank you very much for appearing before the committee this morning. We appreciate your presentation.

#### BLOOR-YORKVILLE BUSINESS IMPROVEMENT AREA

**The Acting Chair:** The next presenter is the Bloor-Yorkville Business Improvement Area. The person making the presentation this morning is Merv McCarthy. Did I pronounce that correctly? Welcome. Please have a seat. Please begin your presentation.

**Mr Owens:** You've got a lot of nerve—

**The Acting Chair:** Mr Owens, you're out of order. I would ask that you allow the deputation to make its presentation. Interjection.

**The Acting Chair:** Mr Owens, you do not have the floor. You have 20 minutes for your presentation. Please begin now.

**Mr Merv McCarthy:** My name is Merv McCarthy and I'm the chairman of the board of management of the Bloor-Yorkville Business Improvement Area. On behalf of the Bloor-Yorkville BIA's 3,000 taxpaying business members, I wish to thank you for this opportunity to address your committee on Bill 94, the Metropolitan Toronto Reassessment Statute Law Amendment Act.

This enabling legislation requested by Metro council is a crucial piece of legislation relative to property taxation. If implemented, it will have a significant detrimental effect on the development of the structure, economy and social makeup of Toronto.

The Bloor-Yorkville BIA emphatically opposes the legislation and the power it gives to the Metro Toronto council to implement poorly thought out revisions to Metro's municipal taxation policy based on a flawed property tax assessment system.

Report 33 from Metro council does not address the real need for reform but rather puts into place a revised set of

rules that will increase rather than redress the inequities that have developed over the last 40 years. Furthermore, the implementation of this scheme, in the absence of any major social and economic studies by Metro council on the impact on residential, commercial, arts and non-profit sectors of our community, represents a complete abdication of their duty of responsible government.

One of the most glaring inequities of this legislation is the flawed and erroneous property assessments upon which the new taxes are based. Reports that have surfaced recently indicate that as high as 20% or better of the assessments are significantly in error. This will result in mass appeals which will tie up the assessment review process for years. Clearly, we cannot allow the appeal process to drag out because of the errors of the assessment officials.

Bill 94 is provincial legislation that will impact not only the city of Toronto but all of Ontario. Municipal taxation policy is one of the prime determinants of the structure of urban communities. It must recognize and be supportive of the community vision as expressed in the official plans and bylaws passed by the local councils as well as by Metro. Any change, however seemingly insignificant, must be measured and evaluated against the longer-term development strategies.

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The Bloor-Yorkville business community has been hit hard by the recession and many of our long-standing businesses have closed. Furthermore, a number of new development projects in our area, such as the proposed Cineplex development on Bloor, have been put on hold because of the poor economic climate. Bill 94 will further delay these projects, leaving gaping holes in our community. Any further business closures in the Bloor-Yorkville community will take us below the critical mass necessary for a viable and vibrant commercial area.

As one of the key tourist destinations for Toronto, our decline would directly impact the tourist revenue for Ontario. Is it not incumbent on our government to encourage business and tourism for the long-term benefit of Ontario? But your government seems determined to implement policies that will destroy the multilevel commercial, residential and business fabric of our city core.

This taxation scheme encourages further urban sprawl at a time when other, longer-term initiatives are attempting to increase urban intensification and efficiency. It seems that important government instruments such as municipal taxation should be supporting in every way the efficiency of urban infrastructure.

On behalf of the board of management of the Bloor-Yorkville BIA, we urge you to reject Bill 94 and make an immediate call for provincial examination of real property reform affecting Metro and the greater Toronto area.

**The Acting Chair:** Thank you very much for your presentation. Ms Swarbrick.

**Ms Swarbrick:** Mr McCarthy, you state that our government seems determined to implement policies that will destroy the commercial, residential and business fabric of our city cores. Since this is really a Metro proposal we're dealing with, I'd like to know if you said that to the Metro government when you spoke to it.

**Mr McCarthy:** I didn't speak to the government, but it was addressed to the government.

**Ms Swarbrick:** Since this is a Metro proposal, why have you not spoken to the government?

**Mr McCarthy:** It's a Metro proposal, I agree with you, but it is the government of the province that has the right to either accept—

**Ms Swarbrick:** That's not my question. It's the municipal governments around Ontario that in every other municipality have set their own property taxes, and in this case we believe that Metro shouldn't be treated as immature children any more than the rest of the municipalities. If you're making such a remark about us, I'd like to know why have you not spoken to the appropriate level of government that's developed it, and why don't you accuse it of that rather than us?

**Mr McCarthy:** This has been addressed and they have been approached on the same level, but now we're approaching the province because it obviously doesn't feel that we are right.

**Ms Swarbrick:** The one last question I had is, what did the Metro government say in response to you?

**Mr McCarthy:** Merely that the greater picture is of importance to them, and they, I presume—they have every right to do so, as I say—consider the greater picture. However, we, as the Bloor-Yorkville BIA, are concerned with our particular area.

**Ms Poole:** Mr McCarthy, thank you for your presentation. It becomes obvious that one of the difficulties is that the government does not even understand what it's doing, and this was just evidenced by Ms Swarbrick in her comments.

Right now the city of Toronto, the local municipality, has the right to determine that assessment. What this legislation is doing is taking that right away from the city of Toronto and giving it to regional government. What they also don't seem to comprehend is that it is provincial legislation empowering the regional government to take over what was previously a responsibility of the city of Toronto.

**The Acting Chair:** Question, Ms Poole?

**Ms Poole:** Mr McCarthy, you have stated clearly in your brief that Bill 94 is provincial legislation. Do you believe that if the NDP government and every NDP member voted in favour of this legislation yesterday—except for ones like Zanana Akande, your member, who did not show up to vote at all. Do you believe that (a) this is provincial legislation and (b), if this NDP government implements it, it will be abandoning the city of Toronto?

**Mr McCarthy:** I do believe this is provincial legislation; otherwise, we would not be appealing to the province.

I'm sorry, I didn't catch the second portion of your question.

**Ms Poole:** The second portion of the question is, if the NDP government, which has the majority and which unanimously voted to bring it in and which has the responsibility, as government, of implementing this legislation, votes in favour of this plan, will it have abandoned the city of Toronto?

**Mr McCarthy:** That is my feeling. Of course, that would be my feeling of any government—



**Mr Owens:** What about your caucus members?

**Ms Poole:** Don't you understand? You're the government.

**The Acting Chair:** Ms Poole, would you please let the deputant answer the question?

**Mr McCarthy:** That would be my feeling of any government that brought in this legislation. This is flawed valuations.

**The Acting Chair:** Mr Turnbull, do you have a question?

**Mr Turnbull:** Yes. On that same issue, here we've got a government where all of the inner-city members who got elected to this government, many of whom are ministers now, campaigned in the last election that they were going to fight MVA. This is some fight they're putting up. Every one of them who turned up for the vote voted in favour of it. No wonder people have cynicism about politicians when they say one story at an election and then vote a different way.

The Liberals and the Conservatives voted the way of their conscience yesterday, and there were people who voted both ways, but every single one of the NDP who had campaigned as being against MVA in the last election and had committed themselves to being against it voted with the government—all except Zanana Akande, who didn't show up to vote. She had been at question period only some 10 minutes before but didn't show up for the vote. How can you expect the carriage of justice if we've got politicians who will say anything to get elected?

**Mr McCarthy:** I must confess that we had not considered that this act coming to the province for ratification would be turned down, based on our assumption of the way we had been addressed.

**Mr Turnbull:** What has your member said? Have you talked to Zanana Akande?

**Mr McCarthy:** We have not spoken to Zanana since the vote, no.

**Mr Turnbull:** Do you intend to contact her?

**Mr McCarthy:** Yes, we do.

**Mr Turnbull:** Good.

**The Acting Chair:** Thank you very much for your presentation. We appreciate your appearing before the committee today. To you and to the other deputations, if there is any additional information, you can continue to communicate with the committee in writing. Thank you very much.

**The Acting Chair:** The Dovercourt Park Area Residents Association is scheduled at this time. They're not here. The clerk informs me that there have been some scheduling difficulties because of some of the changes and decisions the committee made on Tuesday. Is it the wish of the committee to adjourn for five minutes to give them an opportunity to show up? Committee stands in recess for five minutes. Please come back here no later than quarter to 12.

The committee recessed at 1138 and resumed at 1146.

#### DOVERCOURT PARK AREA RESIDENTS ASSOCIATION

**The Acting Chair:** I call the delegation from the Dovercourt Park Area Residents Association. You have 20 minutes for your presentation. We'd appreciate it if you'd begin by introducing yourself. If you would leave a few minutes at the end for questions from the committee, we'd

appreciate that, but the time is yours and you may use it as you wish.

**Mr Dale Ritch:** My name is Dale Ritch. I represent, as you said, the Dovercourt Park Area Residents Association, which is a ratepayers' group in the west end of the city of Toronto. I've got a couple of submissions here.

**The Acting Chair:** You may submit them in writing; the clerk will take them from you. They all become part of the public record. For your information and others who may be watching, you can continue to submit in writing to the committee clerk any information which you think would be helpful to the committee.

**Mr Ritch:** Madam Chairperson, ladies and gentlemen, I'm delighted to be here today to address your committee regarding Metropolitan Toronto's reassessment proposal. As background information on my own involvement with the issue, I've been studying the issue of market value reassessment now for about 15 years as a layperson. I've been involved with the issue for many years and have closely followed the whole unfolding debate over Metro council's market value reassessment proposal, which goes back, as you know, pretty close to 15 years.

It first got my attention about 1981, when there was a furore around something called the windshield reassessment, when the Ministry of Revenue sent out assessors who reassessed 13,000 properties in the city of Toronto. It was called the windshield reassessment because they didn't bother going into the houses or anything like that; they just sat in their cars. They reassessed all the houses that had been renovated and jacked up the assessments based on a cursory examination. That was based on an impact study that Metro council had requested around 1981 for a market value reassessment in Metro based on 1980 market values. There was so much furore around this. The assessors actually went out in the summer of 1981 and investigated every property in Metropolitan Toronto. They did a thorough reassessment, unlike the one that was done last summer. In the summer of 1981 they actually went and looked through all the houses and reassessed every property in Metro, and then we had this flurry of windshield reassessments, which were subsequently thrown out.

The famous Russell Street decision threw out the 13,000 reassessments on the basis that they were done improperly. What the Russell Street decision said is that they could only value the improvements in terms of 1948 market values, not current market values, and that many of these renovations in fact were simple improvements, not renovations, and therefore should not result in a reassessment.

What happened after that is that the Conservative government, which had conducted the reassessment, buried the impact study for a few years, and it was happily buried until 1985 when the Liberal government under David Peterson came into office. At that time, they set up a task force headed, I believe, by the Revenue minister then, Mr Epp, which went around the province and looked at the assessment issue and published a lamentable study called *Taxing Matters*, by David Goyette, a contract employee who published a nice, big, blue report that suggested that market value reassessment should be brought in in Metro and that if Metro Toronto wouldn't do

it, then the province should impose it unilaterally on Metropolitan Toronto. This recommendation was never disavowed by the Peterson government, interestingly enough.

What happened then was that the Peterson government, by reopening the whole issue of the reassessment, opened up the can of worms, and Metro Toronto went back at it again. Subsequently, a debate took place at Metro Toronto in 1987 and Metro Toronto at that stage pushed the whole proposal forward by recommending that there be a reassessment. But what they suggested was that, as 1980 market value at that stage was clearly out of date, there should be a new reassessment based on 1984 market values.

Then a new study was done, but it was based on the previous investigations that took place in the summer of 1981; therefore, Metro basically gave approval to market value reassessment based on 1984 market values. Of course, that dragged on for a while. What Metro wanted was a reassessment based on 1984 market values to take place in 1991. At that stage, the province interceded again. Remo Mancini, the then Liberal Minister of Revenue, said yes, Metro could have a reassessment, but it would not take place until 1993 and it would be based on 1988 market values. Then, of course, the new NDP government took over a couple of years ago, and here we are now today.

The point I'm making here, ladies and gentlemen, is that this whole process of reassessment has in fact been driven from the beginning by the provincial government, as all market value reassessments are. Right now this government is trying to pretend this whole thing is Metro's baby: "We're just bringing in legislation to do it. Metro asked." In fact, the reverse is true. Market value reassessment, this one and all the others, are driven totally by the Ministry of Revenue.

The grand architects of the scheme, Terry Russell and Jack Lettner, the former assistant deputy minister and deputy minister to the Minister of Revenue, are now no longer working for the ministry, but they used to go out and sell market value reassessments to all the municipalities across the province very assiduously. That was their full-time job, basically, to sell market value reassessment to municipalities across Ontario, and that is exactly what is still taking place.

The province goes out and threatens, cajoles, woos local municipalities, regional municipalities, county governments etc to bring in market value reassessments. This is not something the local governments have really any responsibility for. The ministry, of course, cooks the books or does whatever's necessary to get the local municipality to bring it in.

If, for instance, there's a lot of opposition in certain areas, the ministry will give grants; they will actually buy off municipalities so they'll have enough votes at a regional government or a county government to get the thing through. Usually what happens is—almost inevitably, if you take a look—these things are always passed through the local councils in December of the year, when nobody is interested, everybody's looking at other things. It's always done very secretly and furtively to defer as much opposition as possible, to tone down the opposition.

This is very much a provincially driven program, and we know it. The residents in the city of Toronto and my area know that this is a provincial responsibility. We're not buying the argument that this is Metro's baby and that you're just

passing the legislation to go along with what they want. We know the government of Ontario and the Ministry of Revenue are the driving force behind market value reassessment.

And this, of course, is market value reassessment. It's—pardon the language—a bastardized version of it, to be sure. In fact, it's very doubtful exactly what this is. We know what it isn't. It's hard to say what this is, but it's basically stemming from the section 63 reassessment program promoted by the Ministry of Revenue.

My own involvement in this issue goes back many years, as I said earlier. I was an active member of the NDP for many years; no longer am. Starting in the late 1970s in the Dovercourt riding, a whole group of us involving people like Rosario Marchese, the MPP for Fort York, Tony Silipo, the MPP for Dovercourt, and Joe Pantalone, just to name a few, and many others, started up a campaign, a crusade, in the NDP to win the NDP to a position of opposing market value assessment.

The first thing I realized when I got involved in politics in the west end—I'm talking about Dovercourt. This is an NDP bastion and has been for years, for at least two decades, with ethnic, working class home owners, an NDP bastion.

They've always hated market value assessment. The whole concept of market value assessment has been totally anathema to the ideology and the consciousness of the working class home owners in our community, for obvious reasons. If you improve your property, your taxes go up; just such a simple thing about this plan. Of course, working class home owners have a love of their community and a love of their homes, and I might add that working class home owners have almost all their equity, almost all their capital, almost all their savings invested in their homes. This is another thing you have to realize. It's not like this for the middle class and upper middle class. All the studies put out by the Fair Tax Commission support what I'm saying here.

Property tax is not a wealth tax; it's a regressive tax. The first thing I found out was that working class home owners hated market value assessment and wanted a new system. We launched a crusade in the NDP, starting about 1977, and we fought and we fought. We went to convention after convention at the Metro level and the provincial level.

Finally, in 1984, we won the NDP to our program, which was no further introduction of market value assessment. We had a whole package, the removing of education and spending from property taxes etc.

If you look at that page from the policy book in the NDP manual, there is a whole well-thought-out, well-connected program there for property tax reform, which the NDP is totally turning its back on now, rejecting it and throwing it out. I cannot understand this. The working class home owners in Dovercourt cannot understand this.

How a party which says it represents the working class in this province, and believes in its policies and is different from the other parties in that it sticks to its policies, can totally reverse itself and go back on its promise to the people, and totally reverse its policy, we find unbelievable.

We had a meeting last night of 400 home owners in our area, a very militant, angry meeting. These people are ready to go to war, not just with Metro council but with the province of Ontario, because they know what's happening here.



They know this NDP government is getting ready to steamroller this bill through the Legislature without even any kind of decent hearings.

The other thing we know, that a lot of the people in our area know now is how much their taxes are going to be going up, because we went to the trouble of getting the lists and getting leaflets to the door. We've told thousands and thousands of home owners how much their taxes are going up. Most people in the city, in Metro, that are getting increases according to market value don't know that because nobody's bothered to tell them; none of the politicians, that's for sure. They're going to find out next May when those revised tax bills go out with the mill rate hike and the market value hike.

You're going to have insurrection in the streets in the city of Toronto, I'll tell you right now, because these people are not going to pay it. They can't pay it and they're mad. They're not mad just at the fact that they're being hit with an unfair tax; they're mad at the fact that they've been lied to by an NDP government and NDP politicians who have been telling them for 10 years, "We're against market value assessment," and now have made a 180-degree turn and are for it and are ramming it through the Legislature.

We in our community just can't accept this situation, where a party in power can just reverse itself, reverse a promise which has been made to the people and go 180 degrees in the other direction. We fought this battle in the NDP and we won it and now we're wondering why and how this can happen, that in such a short period of time a party has gone from being totally opposed to market value assessment and can reverse itself.

I want to talk a little bit more about getting back to the provincial government and what market value assessment is really about. One thing it is for sure is a tax grab against the inner-city areas, not just the city of Toronto but East York and York, where thousands and thousands of home owners are getting huge increases too.

I might add that market value reassessment is not just happening in Metro; it's happening all over the province now. There have been big battles fought this fall in Kingston, in Ottawa, in Kitchener. In Niagara region, the regional government voted against market value reassessment. In Hamilton-Wentworth, the regional government voted against market value reassessment. Last fall, Peterborough county voted against market value reassessment. Haliburton county voted against market value reassessment.

## 1200

What market value reassessment is going to do is not just destroy the city of Toronto, East York and York; it's systematically going to destroy every urban area across the province. This is what you've got to understand. What you're destroying are the urban areas. You're going to turn Ontario into Michigan and New York and Ohio, because what you've done by picking a 1988 base year—it is your Ministry of Revenue officials who have done this. They've been the brilliant people who have decided that 1988 is going to be the province-wide base year. You'll remember we had a real estate boom in 1987, 1988 and 1989 in which in some areas of my community prices doubled within a year and then they collapsed again. Since then the prices have totally collapsed.

So what you've done is to pick a base year that is totally irrational because those values are totally meaningless now.

What happened in the inner city is that the property values skyrocketed between 1986 and 1989 and then they totally collapsed, whereas in other parts of Metro the values went up, yes, and they came down less. So what you have is a peak here. We're being taxed up here and everybody else in the suburbs is being taxed down here. What you're going to get is this tremendous flight of tax dollars and capital from the city to the suburban areas. You're going to destroy the urban areas, the downtown core.

It's not just the city of Toronto. You've got to understand this is the same process that's happening province-wide. Up in Ottawa, the Ministry of Revenue and the regional government, in order to get a market value reassessment through council—they got it through by one vote. Do you know how they did that? They bought off a couple of small municipalities. They went out and bought them off. They gave them grants, a few million bucks' worth of grants so they could get the votes. There are utterly scandalous things this government is doing. They've been doing it for years and now it's time to call a halt to this kind of nonsense, because we cannot afford to destroy all the urban areas in the province with these nonsensical, so-called market value reassessments.

I want to get a little bit into what we're talking about in market value reassessment. It's hard to say what market value reassessment is. For instance, the briefing papers put out by this government said, "Don't call it a market value assessment." Well, what the hell is it? That's what we want to know.

I've got some statistics here, a study that was done by the city of Toronto looking at the 1984 market values. I'm going to give a couple of copies to the committee. This is really important stuff to look at if you want to understand how this ministry has been pulling the wool over people's eyes for decades in this province.

By the way, market value reassessment is essentially a Conservative program that was introduced and administered by the Conservative government for a couple of decades. You should know that as well. I don't want to let anyone off the hook who bears responsibility for this program.

The city of Toronto did a study based on the 1984 market values that Metro did. They compared those so-called market values to actual sales prices in 1984; that is, actual market values, what a house sold for.

By the way, we should go back a bit here. What is market value assessment? It's a total contradiction, first of all, because a market value is a very scientific, objective thing. It's how much your house sells for—not four years ago or 10 years ago or 30 years ago—how much it sells for now. That's what a market value is. That's objective. That's rational. Okay, fine, take the word "assessment." You tack "assessment" on to "market value" and what do you have? An oxymoron, a contradiction. An assessment is an opinion of something concrete. It totally defeats the purpose, okay?

When you renew your mortgage, when you have to get a mortgage, you have to pay 200 bucks and some appraiser comes out and gives you a good idea of what your property is worth. That's not what the Ministry of Revenue does, though. They use what's called a mass appraisal technique. When

they went around in 1981, they had to reassess a million properties. They use what's called a mass appraisal technique.

We had our city staff compare these so-called market values with the actual sales prices. I've got another study here that was done by a gentleman in Etobicoke. His name is Harold Bradshaw. He might even be addressing the committee, so you might be getting this from him anyway. I want to give him full credit for it. He went around and got some sales figures in 1988 for Etobicoke and compared them to the so-called market value reassessments the province came up with. What you find is incredible discrepancies. You find all kinds. I'll give you just one ward in the city of Toronto here.

**The Acting Chair:** There are two minutes remaining in your time, Mr Ritch.

**Mr Ritch:** I won't go into detail. I'll let you look at this stuff, but I just want to make the point that this is not market value assessment. They don't use sales figures. They don't use sales figures at all. All they use the sales figures for is to check. Their formula is a totally synthetic formula and it bears no relationship at all, necessarily, to what the market value of your house was or is at any time.

If you take a look at the range, we got it out of Woody Thompson, who was a regional assessment commissioner for the city of Toronto and Mississauga a few years ago that in the system the province uses, the margin of error is that 75% of the assessments are within 10% plus or minus. That means that 25% of the assessments are out by more than 10%; 25% of the home owners are victims or beneficiaries of this.

Nobody would accept an income tax system or an excise tax system or a sales tax system in which 25% of the cases are out by more than 10%. Nobody would accept that kind of system. Why does the province of Ontario accept that kind of system, which has such glaring inaccuracies in it?

Since my time is running out, there's just one other point I want to deal with here. I could go on at length about the ridiculousness of this system, and how unfair it is and how vindictive it is and how if you appeal your assessment, the Assessment Review Board has total power. They can roll it back. They can increase it. If you come up with a good comparison next door, they'll tell you at the ARB, "Oh, we've already reassessed that property up," so you can't use it any more. If you bring a lawyer, they bring three lawyers, whatever.

The Assessment Review Board is a kangaroo court from start to finish. It's a joke, and if you go to the OMB it's the

same thing, because the ministry does not have to justify its assessments. There are no rules of procedure at the ARB and it does not have to justify how it does its assessments. This thing is a totally dictatorial type of system and it's got to go.

The final point I want to make is this: There is one thing the home owners in the west end cannot stomach, and I speak for the whole community on this, and we're going to go to war with the government. If we have to break the law, we'll do it, and I'll tell you right now, you're going to be responsible for this.

There is this point-of-sale thing on the residential. You took it off commercial, you took it off industrial, but it's still on residential. Why? Why is it that if you sell your house, the full increase goes through automatically, which means you multiply your tax increase by 20 and subtract that from the equity in your house, because any home owner's going to want to know what the taxes are going to be over the next 20 years. That means a home owner in the city of Toronto getting a \$1,000 increase is having \$20,000 stolen from his pocket if this thing goes through the Legislature with the point-of-sale thing intact. Why is that? How can you do that?

Sending it back to Metro for a bylaw; that is nothing. That is going to do absolutely nothing. They've got the votes there to do that. They'll pass it through in five minutes.

We're demanding of this government, and of this committee, that we want a recommendation, an amendment to the legislation that says, "Take the point of sale off residential." We're demanding that. We're not asking for it, we're demanding it, and if we don't get it, we're going to war against you guys in the province. Not a tax strike against Metro. We're not stupid. We know the city has to collect those moneys and it won't withhold the taxes to Metro. We're going to launch a tax strike against the provincial government, against the PST. That's what we're going to do. That'll be easy to do. We'll just tell all the merchants across the city, "Don't collect PST any more." Okay? That's what we're gonna do.

**The Acting Chair:** Mr Ritch, thank you very much for your presentation. I know the committee listened intently and we appreciate your coming before us this morning. If there's anything additional that you or your organization would like to share with the committee, you may do so in writing.

The standing committee on social development stands adjourned until 3:30 or immediately following routine proceedings this afternoon.

The committee recessed at 1208



## AFTERNOON SITTING

The committee resumed at 1543.

**The Chair (Mr Charles Beer):** I now call this meeting of the standing committee on social development to order. We are meeting to consider Bill 94, the market value assessment bill, and our first witness this afternoon is Transport 2000 Ontario. I'd like to invite the representative to come forward to the table, and would you please introduce yourself for Hansard. We have 20 minutes from when you begin. Your submission has been passed out.

**Mr Turnbull:** Mr Chair, just as a point of information prior to this presentation, could we have identified as to whether we have ministry officials from Revenue in the audience, or do we only have them from Municipal Affairs?

**Mr Gordon Mills (Durham East):** Municipal Affairs.

**Mr Turnbull:** There's nobody from Revenue?

**Mr Mills:** Oh, yes, there is. I'm sorry. The one at the back.

**Mr Turnbull:** Will we have them in attendance at all times?

**Mr Owens:** They have been in attendance the whole time.

**The Chair:** Yes, I'm told that there will be somebody from each ministry.

I did want to just note as well that we have received one document that has been sent in by a Professor Goring, and you will have a copy of that. There were also some documents from this morning that are being circulated.

## TRANSPORT 2000 ONTARIO

**The Chair:** Please go ahead.

**Mr John McCullum:** Good afternoon. I would like to thank the committee and the members on behalf of Transport 2000 Ontario for this opportunity to present some views and a submission this afternoon.

On the title page of the brief that has been left with you, a second name is listed. The gentleman, Mr Perl, sends his apologies. He was pre-empted from attending.

My name is John McCullum. I'm past president of Transport 2000 Ontario. I live in Burlington, Ontario and, as I like to say, I'm a member of the idle poor so I have time to give to organizations and public interest affairs such as this.

Just a word about Transport 2000 Ontario. Some of you have a copy of the leaflet. It's a volunteer advocacy organization. It's not a lobby group. We don't lobby for any vested interests, as I'm sure you would expect. It's supported by member fees, after-tax money and volunteer effort. It has over 400 members throughout Ontario and it's part of a national federation called Transport 2000 Canada. Its mission is to speak out in favour of socially, environmentally and economically sustainable transport policies and actions. It's not much different from what the round table was attempting to accomplish in the hearings in the various sectors, and we participated in one of those. We test this by seeking disclosure and research of relevant information affecting mission objectives and ensuring that we speak out for equitable treatment of providers and users.

Now, why are we here? Well, we're pretty concerned about inequitable treatment of rail versus road modes of transport by government policy at the federal, the provincial and now acceleration of inequity at the municipal policy level. You might say, "So what?"

Overall, the Canadian rail system handles two thirds of the total tonne/kilometres. Don't confuse this with revenues in the transport business. They only get one third of the revenue, but they handle two thirds of the tonne/kilometres. Of the rail freight traffic, about 30% is road transport-competitive.

The application of uncapped market value assessment to rail rights of way combined with the abrupt withdrawal in 1990 of the railway property tax class factor for rights of way will result in a very large new cost burden on rail operators in Ontario. I think you've heard that before, as I watch television of these hearings. One hears large numbers for Metro: another \$40 million a year. I happen to live in the Halton region. Market value assessment is active there and one can deduce another \$1 million there from the numbers that have been presented. Applied throughout Ontario, this amounts—and I say this sincerely and with all the credibility I can command—to potentially crippling and debilitating discrimination against the rail mode compared to road transport.

Why do we say all this? Comparatively speaking, the national rail systems must conform to much more meticulous and onerous—read costly—regulatory requirements, behaviour, reporting, implementation and pricing. This level of attention is not meted out to US railways, with whom they compete, by a very wide difference.

The rail operators pay the same federal diesel fuel tax, four cents a litre, as road transport does, and a range of provincial fuel taxes, in two provinces greater than that paid by road operators. In Ontario the current rates of fuel tax are listed there for you: 14-odd cents for trucks and 4.5 cents for rail per litre. The irony is that the payment of the fuel tax is represented by road transport as a full measurement of entitlement for government spending on road infrastructure construction and maintenance. What can rail expect for its payments? A good question.

The flaw of that position is that the cost of interest payments on debt funding, which is usually 20-year term—and I think this is awfully important here—of past years of capital spending on roads is not attributed to the cost of the road system. The poor Treasurer just has to pay that out of his bottom drawer. In Ontario, Transport 2000 calculates that this is more than \$1 billion per year. We've done an exhaustive 40-year survey of Ontario public accounts, and by deduction and attribution that is our conclusion. Maybe we're out by \$50 million, but it's in the billion-dollar category. That's a cost that is paid on the debt interest for the capital investment in the roads of this province and the capital subsidies to the cities and municipalities. It does not include any debt that might have been incurred for GO Transit, for maintenance of roads or buildings on the road system.

In the US, the average fuel tax for rail is 9.1 cents a litre lower in the northern US states than in Canada. You may

recognize that figure from perhaps data in the CP Rail submission because they're the people I got that from.

In the matters of capital cost allowance—now we're talking about a federal matter—for computation of income tax, rail assets in Canada reach 55% write-off in eight years; in the US, rail assets reach 100% write-off in eight years. Clearly capital investment in Canada has greater recovery risk.

1550

Next, in Canada, any railroad can invade, so to speak, another system to a depth of 30 kilometres to serve a shipper and capture his business. That's the interswitching rule of the National Transportation Act. This is one of several provisions intended by government to preserve a competitive environment in a period of expected reduced rail network size and location, all in the belief that Canadian railroads still had a virtual monopoly. Transport on public road has shown otherwise, and I would add, intrusion or service by US lines has also shown otherwise.

Next point: There are nine or so border crossings between Canada and the United States where US railroads operate into Canada on their own tracks or with running rights on the tracks of Canadian railroads that are a matter of historical contract. There are also several border junctions of US and Canadian railroads where traffic can be exchanged between them. And if you consult a map, like this Railway Association of Canada map, you can see all this very clearly. They're spread across the continent in virtually every province. The US railroads concerned are bigger than Canadian and have heavy traffic volumes and therefore they can look on any business they can capture by slipping up into Canada at one end of the continent and capturing traffic and moving it along their lines and then depositing it across the border at the other end of the continent, and it's simply incremental business.

Canadian railroads do not receive the privileges of this invasion of another system described earlier where they operate in the US or connect with the US. The US railroads running on their Canadian tracks could claim equal treatment privileges for their shipments to a final US or Canadian destination if it were to their advantage. With lower US taxation and higher-volume economy, diversion to the US and/or solicitation for diversion to the US could be irresistible.

This, I might say, is also going to affect road transport in that it could include transport for road trailers and containers as well as direct loading of rail cars. CP Rail is particularly vulnerable because of its location close to the border.

So you may say after all that: "So what about MVA? Where does this fit in?" US federal law prohibits municipal land taxation of rail rights of way any differently than similar lands owned by others. I think you heard that from CP Rail, as I watched that on television this morning. US lines do not encounter what this bill envisages for Canadian rail rights of way, all of which is further compounded by the abrupt withdrawal of the railway property tax class factor. This leaves the clear conclusion, then, that these two provisions will add another severe burden to a vital Canadian transportation mode. This could be the straw that breaks the camel's back, so to speak, and trigger massive abandonments and/or line shutdowns. That in turn would mean loss of rail services throughout Ontario and the transfer of some traffic to a road system that is already bleeding the general taxpayer and leave

no way of moving some bulk traffic economically, and those who depend on that bulk traffic will suffer. The railroads themselves can give quantitative evidence of the consequences of all this. So you may say, "My goodness, don't blame us for all that."

Unfortunately, this bill comes at a time when the tax issues and road price/cost allocation issues are being argued in other forums. They may be resolved there sooner or later or maybe not at all. If resolved at some time, the market value assessment provisions may seriously neutralize those results. I don't think there's much doubt that it may do it—it will seriously neutralize them. If not resolved ever in those other forums, there may be no one to pay the tax assessment anyway in these many communities.

Either way, it's counterproductive for rail's ability to pay. That's the real question of taxation fairness: ability to pay. In the worst scenario, Ontario and its people would be the big losers. For example, where is the incentive to build GO rail links to the Toronto airport if it is just going to be there to enlarge the tax burden? Where is the incentive to reconsider branch line abandonments which have GO and freight relief potential if other tax reform is neutralized by MVA aspects?

What's Transport 2000 suggesting? By the same administrative procedures that were used to withdraw the railway property class tax factor in 1990, reinstate it until such time as its effect or equivalent can be enshrined in law. Ensure that rail business properties otherwise are not treated differently from those of other businesses.

I would add that, with the greatest respect to all members of this committee and all members of the Legislature, I'd go so far as to say that no government should feel shame; indeed, it should feel virtuous in withdrawing legislation, even at this late stage, in order to address the issues of equity all of you in this committee have heard, as I have heard them watching reports on Legislature TV.

If all that can't be done, I have only one conclusion for you, and that is, if cross-border shopping troubled merchants and legislators, then they and others will be stricken with shock when cross-border transport, operated by the US, takes over from Canadian workers and operators. That concludes the written comments.

**The Chair:** We have a few minutes for questions, and given the time, I will take one question from each caucus. I have Ms Poole, Mr Wiseman and Mr Turnbull.

**Ms Poole:** Thank you very much for your presentation today. Before I ask my question, could I just ask for a matter of clarification? Of your 400 members, are they all affiliated with the rail industry or are you a mixture of trucking and—

**Mr McCullum:** No, no, they're from all walks of life, Ms Poole. Some of them are teachers. Very, very few of them work for railroads. I think you could count them on the fingers of one hand. They're students, computer operators, academics, idle poor, like me, and teachers.

**Ms Poole:** That's quite important, because we've had a number of briefs from the railway.

**Mr McCullum:** No, we're not a lobby group.

**Ms Poole:** But you are from an umbrella group representing all walks and you can look at this in a fairly unbiased way.



The question I had for you is that because of the impact of Metro not capping the railway rights of way, my assumption is that this is going to make the railways totally uncompetitive, that they will close down part of their operations. They may have to.

**Mr McCullum:** I would agree with your surmise, and I would further suggest that you probably will see an acceleration of abandonment applications, but what you won't see but what will happen is that the railroads will not be able to have access to capital or equity to sustain their operations. The sustaining investment required to replace the ties, rebuild the ballast, replace the rails, paint the bridges and repair the structures will all start to be deferred and in the course of time the trains will have to slow down. And when they slow down, they'll lose some more of the road competitive business, and when the tracks start to deteriorate, the load limits will go down and they will start to lose the heavy loads and they'll reach a point where they haven't got enough business; they're better off abandoning it than running it. This will apply to a lot of the tracks east of Thunder Bay.

Mr Turnbull is here. Maybe he's heard that before, but that is what will happen. It won't happen tomorrow, it won't happen next year, but it'll happen in the term of this government and the next government. That's my opinion. I mean, God doesn't speak to me on these matters.

1600

**Mr Turnbull:** Mr McCullum, thank you very much. Obviously, the rail rights of way have some unique aspects to them. The approach that is taken of taking the average of the adjacent land as the value of the rights of way seems, to say the least, imperfect, even if you liked MVA, simply from the point of view that you don't receive any municipal services to rail rights of way, as evidenced by the fact that when there was the derailment in Mississauga, the railways were actually billed for the fire service to the site.

It has been suggested that the impact on GO service will be an increase of \$250 per year per passenger. Can you comment on that?

**Mr McCullum:** I haven't heard that number, but of the \$40 million that I hear about as the impact in, I guess, the greater Toronto area on the railway system—maybe that's just Metro Toronto. If that's just Metro, then in the greater Toronto area it will be greater. That is the mandate of GO, to serve the greater Toronto area all the way to Burlington and even Hamilton. A good part of the traffic on these lines is the GO trains, so I would say something like maybe a third to a half of the \$40 million has got to be on the bill to GO and that's going to show up on the passengers and—

**Mr Turnbull:** It's a direct pass-through, isn't it?

**Mr McCullum:** I guess it's a significant increase in each fare, maybe 5% to 10%. I haven't worked out any numbers, but it's there. I don't know what the terms of the contract between the railways and GO consist of, but if you want the service to run, there's going to have to be a bill to be paid.

**Mr Turnbull:** Based upon that, before the next question, could I just make a motion at this moment that the Minister of Transportation be requested to attend these hearings and comment on what action he is taking to handle the added

costs that GO will have to incur as a result of the contractual obligations between CN and CP with GO?

**The Chair:** Do you want that as a motion or a request that we get that information from the minister?

**Mr Turnbull:** I would have it as a request. I'm concerned about getting ministers here.

**The Chair:** Why don't we get that information and we can discuss the motion at a time when we have the time to do that, Mr Turnbull.

**Mr Turnbull:** Yes, Mr Chairman.

**Mr Jim Wiseman (Durham West):** I'd like to welcome you to the committee and congratulate you and your organization on the work you've been doing. Whenever I get a chance I read through the information you supply, and I must say that if the general public were to read it they would have a better understanding of the inefficiencies of highways and the kind of cost-effectiveness that rail can supply in terms of meeting the needs of business and individuals.

It's \$20 million per mile to build a highway and somewhere in the neighbourhood of \$17 million to build bridges. It strikes me that your graphs and the information you have put out clearly indicates that rail is far more efficient. In fact—and just to give you an opportunity to digress for a moment—my understanding is that there are now studies being done that show that just-in-time delivery can be handled by the railways if certain conditions are met. Are you aware of that and can you give us a little bit of an overview there?

**Mr McCullum:** I think I would have trouble responding to your question from direct experience or knowledge of shippers, but if you take into consideration that 30% of the rail traffic is road-competitive, part of that is traffic they haul on the line called the long-distance haul with trailers or containers that can go on to trailers. They carry these on the railroad for the long distance and then they deliver them by truck, so that is part of the, perhaps, just-in-time inventory picture for some shippers and some users.

The most significant example of what I think you're talking about is the service offered by Canadian Pacific in using what they call a bimodal vehicle called roadrailers. These look like truck trailers and they can run behind a tractor on the highway for local delivery, and then they just drop a pair of wheels down to the rail and they hook them up to a locomotive and away they go on a train. If you go out to west Toronto, Campbellville or Cooksville any afternoon after 6 o'clock, you'll see the one going down to Detroit with about 20, 30, 40 of these on behind one little locomotive, two men in the cab. Now, that's productivity.

That largely serves the auto industry and if there's anybody concerned about just-in-time delivery service, it would be the auto industry. I think that comes very close to being an example of what you were looking for with your question.

**The Chair:** I'm sorry, I'm afraid our time is up. In the interests of ensuring everybody gets the same amount of time, I want to thank you for coming and bringing both your submission as well as the information about the organization.

**Mr McCullum:** Mr Chairman, for those who care, you all have this letter from Transport 2000 Ontario and there's

some useful data in there. I know you're just besieged with things to read, but I suggest that this will be useful to you.

**The Chair:** Thank you very much.

#### GLENORCHY RESIDENTS ASSOCIATION

**The Chair:** I would call the representatives from the Glenorchy Residents Association. While we're waiting for them to come forward, perhaps I can just say to members, if you can bear with me, we don't know how much time we'll have for questions on each side. So if each party could perhaps determine who might go first, it would make it easier for the Chair.

Welcome to the committee. Perhaps you would be good enough to introduce the members of your delegation and then please go forward. You have 20 minutes.

**Mrs Mary Wahl:** Okay. I am Mary Wahl and I'm president of the Glenorchy Residents Association. This is my son, Fritz Wahl, and this is one of the members of our community, Mrs Margaret Lang.

Mr Chairman and members, our association wants you to stop market value assessment now. The new system will be no more fair and equitable than the existing system and will cause a great deal of disruption to residential, commercial and industrial neighbourhoods. It will, in itself, disrupt existing market values. Businesses affected will reduce staff, go out of business and/or go elsewhere, and those suffering increases will suffer decreases in property values.

Our neighbourhood is mainly 1960s-type homes. We have 181 houses. We're located south and west of Edwards Gardens. We're surrounded by Wilket Creek Park and Sunnybrook Park and we're in the very western end of the Don Mills riding.

There have been some very large homes built as well as massive renovations in recent years in our area, but the older homes predominate by far. In general, market value assessment will cause the taxes on the newer homes to fall and the tax on the older homes to go up, and in fact the tax on the old and the new will be so close that no one will want the older homes.

Market value assessment will make real estate taxes within our neighbourhood, never mind the rest of the city, less equitable, and you can be sure we will be out to appeal our taxes en masse if market value assessment is implemented.

I brought along today two copies of the Glenorchy Gleaner. This is our neighbourhood newsletter. I'd like to circulate that with my comments here to show that we're serious. The lead article, of course, is market value assessment.

Market value assessment is based on 1988 values. In our opinion, 1988 was an overheated market and is an unrealistic guide to market values because the excesses did not hit areas uniformly. We know that market value assessment is based more on location and lot size rather than the house and its amenities, as it is now. This puts an onerous burden on our older housing stock, and especially the smaller houses on large lots.

The days of knocking houses down and starting over is over. It's gone. My real estate taxes have increased 44% since 1988. Now you would think market value has already been put in, but if market value assessment is implemented, this goes up to 56% since 1988. Our family income has not

increased since 1988. Our present market values in Glenorchy are down at least half of what they were in 1988. We would like the provincial government to wait until the Fair Tax Commission submits its report for analysis and public review before making a decision on market value assessment.

In addition to this, I wanted to say that I'm also a sales representative—this is a personal thing—for several wholesalers. I sell to retail stores within about a two-hour radius of Toronto, mostly craft stores, places where people can go and buy leisure-time activities, a wonderful way to pass the time, a healthy way. These stores are extremely vulnerable under market value assessment and we're going to lose something very special in Metro if market value assessment is passed.

My son has a few personal comments.

#### 1610

**Mr Fritz Wahl:** If MVA is passed, at Whitlock's Restaurant on Queen Street East in the Beaches, my place of work, the tax will go up so much that it's questionable Whitlock's will stay in business. Myself, the new worker, will be the first to lose my job.

I received this chance to do something productive with my life and which I enjoy. I do not want to lose it. It has taken me a year to find a job, and with MVA I don't know how long it will take to find another one. I don't want to be one of the 3.8 million people living in poverty.

**Mrs Margaret Lang:** I came here today with a report that took two years to compile about raising taxes. After reading this morning's paper and hearing that Bill 94 has had its second reading, I find that very hard to contend with. I represent people in Toronto and all its environs and I have their thoughts down here, but the way I feel—how in the world can you legislate a law before all the evidence is in? It's like passing sentence on a criminal before the trial takes place.

I feel today is an exercise in futility and a waste of expenses and time and energy. Since when is a law approved before the evidence of both sides is tabulated and examined for a decision, which is so greatly objected to and is going to put taxpayers in jeopardy? Has the government dispensed with all constitutional rights and privileges for the taxpayer who pays for your salaries and expenses, and with a tax differential? MVA is unfair because it will create a benefit for a few and a great hardship for many. This is not a democratic way of government. The function of all laws should be equal for all.

MVA is based on the 1988 sale price, which was the highest in the province's history. First of all, it should be based on the price people pay and on this year, because business is down and everything's down. Where are we going to get the money? It does not take into consideration that the MVA will penalize the very people who bought their homes some 25 years ago, who have just paid for them and will be taxed the same as the monster homes with nine bathrooms, swimming pools etc. Also, young people just starting out are going to be penalized. Where are they going to get the money? Senior citizens can hardly make it now. They don't get paid vacations. They don't get tax exemptions.

This MVA is unfair legislation and it's been objected to strenuously, economically and financially. If it is forced upon the taxpayers you'll have the biggest tax revolt in history,



even bigger than the one in California. We have no other alternative but to sue the government for unfairly legislated tax law in order to extort money, more and more from the overgoverned, overtaxed and underserved taxpayers. We simply can't afford to and will not be treated as stupid, ignorant people and be deprived of our constitutional rights.

I've taken two years to interview people and had them sign petitions. Very few people are for the tax because they're just getting by now. You're putting people into jeopardy and invoking a hardship on the very people who can't help themselves. We request that this be put in abeyance until it's carefully studied and looked into, not just railroaded on to a taxpaying—we can't afford it.

I've been a court reporter for a long time and I've sat in on all kinds of things, but I've never yet seen a case where it's concluded before it goes into evidence, never before; it's the first time. I find that a betrayal of the people. Because we pay for everything, you should be accountable to us; not us to you.

**The Chair:** If I might, and then we'll go to questions, the procedure in the Legislature with all bills is that before a bill goes to committee, it goes through second reading. The purpose of this committee is to hear from the public, and there's then an opportunity for amendments to be made to the legislation. It has to go back to the Legislature for further debate and for third reading. I simply want to indicate, in terms of the various steps that a bill goes through, that there are still periods, including this committee and third reading, where changes can be made to the bill, and that is the point of this hearing.

**Mrs Lang:** I appreciate that, but the fact is that when a bill is read for the second time and they tell you it's going to be implemented by December 10, that doesn't seem fair play or an honourable thing to do.

**The Chair:** I appreciate your comments. I just wanted to indicate that the purpose of this committee is to hear from witnesses. There is an opportunity for amendments to be made to this or any other legislation that would be before a committee, and then it goes back to the Legislature for another debate and for another vote.

**Mrs Lang:** Okay; thank you.

**Mr George Mammoliti (Yorkview):** Can you tell me the average amount that a ratepayer would pay in taxes in your community?

**Mrs Wahl:** Do you mean right now or under market value assessment?

**Mr Mammoliti:** Right now.

**Mrs Wahl:** I'd say anywhere between probably \$9,000 and \$11,000.

**Mr Mammoliti:** That would be about \$1,000 a month.

**Mr Wiseman:** Taxes?

**Mrs Lang:** Yes.

**Mr Wiseman:** It is \$11,000 a year?

**Mrs Wahl:** What am I saying? I've got too many zeros. Remove a zero.

**Mr Mammoliti:** It is \$900?

**Mrs Wahl:** No, \$9,000 to \$11,000; that's right.

**Mr Mammoliti:** They're paying \$11,000 a year in property taxes?

**Mrs Wahl:** That's correct.

**Mr Wiseman:** On what size houses?

**Mr Mammoliti:** Are you sure about that?

**Mrs Wahl:** My house is one of the bigger ones in the neighbourhood.

**Mr Mammoliti:** How big is it?

**Mrs Wahl:** It's a two-storey and it's a 1960's type. It has five bedrooms and four bathrooms.

**Mr Mammoliti:** And you're paying \$11,000 a year in taxes?

**Mrs Wahl:** That's right. Our current one is over \$10,000, and it'll be almost \$12,000 under market value assessment.

**Mr Mammoliti:** That's a lot of money.

**Mrs Wahl:** Yes, we think so. You can see what the newsletter says.

**Mrs Lang:** It's like a mortgage on your house. If you have to pay \$1,000 a month on your taxes, you can get a mortgage and pay a lot less a month and you'll get equity in your house.

**Mr Mammoliti:** So the average in your community is \$11,000 a month?

**Mrs Lang:** The smaller houses are \$8,000 and \$9,000.

**Mrs Wahl:** I would say it's about around \$9,000, \$10,000; something like that.

**Mr Mammoliti:** And are they average working individuals, or are they well off?

**Mrs Wahl:** My husband used to work for Canadian Pacific, and he was one of the leading people there, and now he is the general manager of Hydro in Mississauga. We're there, and people like that.

**Mr Mammoliti:** I must confess that I thought you were paying a lot less, and my line of questioning would have been in and around how my community is being treated unfairly. If you're paying \$11,000 a year, I do sympathize with you, and I'll just leave it at that.

**Mrs Wahl:** Okay. Thank you very much.

Interjections.

**The Chair:** Order, please. Mr Grandmaître has the floor.

**Mr Grandmaître:** You're not going to dock me for this kind of—

**The Chair:** No.

**Mr Grandmaître:** Thank you, Mr Chair. Have you ever appealed your taxes?

**Mrs Wahl:** No, but we're very seriously considering it. But market value just makes the whole situation worse.

1620

**Mr Grandmaître:** We had a gentleman who appeared before this committee last night. His name was Mr Noble, a property tax consultant. He told us that if MVA goes through, you will not be able to appeal your taxes before 1997 or 1998.

**Mrs Wahl:** You're kidding.

**Mr Grandmaitre:** If somebody can straighten me out on this, Mr Chair, we were told last night—

**Mr Chris Stockwell (Etobicoke West):** I'll straighten you out. That's bunk.

**Mr Grandmaitre:** This is what we were told last night, and I think this is unreasonable. I would like—

**Mrs Wahl:** But then you're locking us into something that's extremely onerous.

**Mr Grandmaitre:** I would like the Ministry of Revenue or somebody from the Ministry of Municipal Affairs to correct me if I'm wrong.

**The Chair:** Perhaps you could put that as a question.

**Mr Grandmaitre:** If you want to have that privilege, you'll be overtaxed for—well, I think you're presently overtaxed, but you'll be overtaxed for the next five years. Also, the fact that this committee is sitting while we're debating—we've just had the second reading on the bill. I want to tell you something. We only had one reading on the bill and this committee was sitting. Just the one reading in the House and we were discussing this bill. I think this is a first as far as Queen's Park is concerned.

I just wanted to pass this on to you. I think you had better check with a tax consultant, because you won't be able to appeal your taxes. I think this is very, very serious business. You're being overtaxed, overcharged, at the present time.

**The Chair:** I'm afraid we're out of time. I want to thank you very much for coming before the committee. We will make copies of the material and distribute that.

#### HOTEL ASSOCIATION OF METROPOLITAN TORONTO

**The Chair:** I would now like to call the Hotel Association of Metropolitan Toronto.

**Mr Mammoliti:** On a point of information, Mr Chair: Do they have something for the committee?

**The Chair:** Yes. I said we would distribute the material to the committee, if it could be given to the clerk.

**Ms Poole:** Just on a point of clarification, Mr Chair: I wouldn't want the witnesses going away without understanding that we haven't confirmed that this indeed is true. In fact, I talked to some tax experts and although I would prefer to wait until we have a reply from the Ministry of Revenue, it appears that, for instance, next year you can appeal your 1988 assessment. It's just that if you're getting an increase, you wouldn't have any financial benefit to it because you're already capped. I think that rather than have the witnesses going away believing that it is fact that they cannot appeal, it is still under discussion.

**The Chair:** Thank you for that clarification. We have also asked for clarification from the ministry.

Would you please be seated. If you'd be good enough to introduce the members of your delegation, then we have 20 minutes. Welcome to the committee.

**Mr Charles Powell:** Good afternoon. My name is Charles Powell. I am the currently elected president of the Hotel Association of Metropolitan Toronto. With me is David Hutchinson, a barrister representing the hotel association.

I represent 120 member hotels in the Metropolitan Toronto area. Most of our hotels, as you can imagine, are in the downtown area, with another large concentration of hotels in the airport area, and then the hotels are dispersed somewhat in the east end and all over the city, not just in the city of Toronto but throughout the cities of York, North York, Etobicoke, Scarborough and the city of Toronto.

Tabled before you is a report of October 20, 1992, commissioned by our association. This report originally was prepared to analyse the impact of proposed tax reform with a 20% restriction on permitted reductions to commercial properties. Just prior to printing, however, this was altered to 30%, and I think since to 25%.

**The Chair:** What was that figure again, please?

**Mr Powell:** They kept changing the percentage of the amount of—

**Mr David Hutchinson:** It's now different again. It's 12% in 1993 and 21%—

**Mr Powell:** It's now 12%. If you have a decrease through MVA reassessment, you're restricted to 12% of it in the first year. The numbers in the report are slightly distorted because that figure changed since the time we first made the report, October 20.

This hurried process makes it difficult to completely understand what is occurring and to apprise our members. The proposed reforms are to have a lifespan to 1998. Many of our members will not be in business to see the end of this interim measure.

It has been known by assessment officials for a long time that hotels in Metropolitan Toronto are badly overassessed and consequently overtaxed. We appreciate that this has not happened by any design by either provincial or municipal governments. Some explanation for this is on page 27 of the report.

In 1991, individual major hotel properties were levied property and business taxes 100%, 200% or even 300% of their net income before any allowance for other fixed charges, such as debt service, capital replacement, insurance and lease payments. Canvassing over 13,000 rooms, this study—at page 22—finds that realty and business taxes in 1991 were on average consuming 80% of income before fixed charges. These taxes in 1991 amounted to \$4,428 per room on average, compared to \$1,114 per room to the owners before servicing debt and other fixed charges. This is an average figure. Many hotels have rooms taxed in the \$7,000 to \$8,000 range.

We do not belittle the efforts of any other interest group, but we cannot avoid comparing the taxes on one room with the taxes on a single residential home. We know, of course, that the level of assessment taxation on residential homes throughout Ontario relative to their market values is almost always substantially lower than that on commercial, industrial and multiresidential properties. Many years ago, this province abandoned efforts to assess all properties at market value. In hundreds of municipalities, reassessment has been limited to adjustments within classes.

All we are asking is that we be reassessed and retaxed fairly within the commercial class. This has already occurred in most major cities in Ontario. We are also not so foolish as



to suggest that this historical overtaxation is the entire reason for the critical condition of the industry. None the less, previously commissioned reports show that hotels in Metro are the most highly taxed in North America. The competitive position is partially addressed at pages 37 and 38 of our report.

We think it is important to note that surrounding municipalities offering the same high level of services and infrastructure tax hotels at a much lower rate. It is, in the opinion of our association, indisputable that property and business taxes are a major contributing factor in the decline of the hotel industry.

We believe that an equitable solution can be found in a method that would spread the overtaxation across the entire tax base. We suggest that this need not adversely affect any other special interest group. We do not understand why it could not have been done many years ago. The situation is unique. The ministry's impact study and its previous studies demonstrate that hotels have been historically overtaxed by hundreds of millions of dollars.

I'd like to draw your attention to exhibit 1, which is the last-but-one page. Exhibit 1 was prepared for us and it cites an example in the city of Toronto. We could have done one for the city of Etobicoke or the city of Scarborough, but we chose the city of Toronto, and it represents our best understanding of how this legislation will affect hotel properties in the city of Toronto.

1630

If we go through it, in 1992, 36 hotels in the city of Toronto have a total realty tax levy of \$79.3 million. The indicated new total realty tax to equalize with commercial properties generally, and no withholding, is \$46 million. In other words, what that says is that if hotels were taxed at the same commercial rate as other commercial property, like office buildings for example, that amount of tax, \$79.3 million, would only have been \$46.8 million. Hotels are overtaxed, therefore, by \$32.5 million. This is in one year in the city of Toronto alone.

**Mr Hutchinson:** No, Etobicoke and North York as well.

**Mr Powell:** Oh, it's the whole lot?

**Mr Hutchinson:** This is just one example. There's limited time.

**The Chair:** Sorry, when you speak if you could just move to the microphone for Hansard.

**Mr Hutchinson:** Yes, I'm sorry. The same sample can be drawn by looking at the hotel situation in Etobicoke and North York. We're not picking on the city of Toronto here.

**Mr Powell:** It's just an example.

**Mr Hutchinson:** It's just at the time we picked this.

**Mr Powell:** We've done some calculations on the page which demonstrate what we're talking about. I hope you can see that after market value, in the first year, 1993 for example, the calculation we have come to is that instead of \$79.3 million in taxes, we will pay \$81.4 million, which is a further increase on an already desperate situation, and then it goes on from there, \$84.6 million for 1994, \$89.7 million for 1995.

It is recognized that mill rates will vary in the cycle and may be significantly lower or higher in any one year. In other

words, we've done a calculation here making an assumption of an 8% increase in the mill rate.

Exhibit 2, which is the last page, is our best understanding of what happens to a model property in the city of Toronto if we were assessed at the regular commercial rate that other commercial property is assessed at. You can see we've picked an example of a hotel assessed at a value of \$50 million, and the existing assessment is \$4.25 million; in 1993, realty taxes and business taxes with the usual reassessment program to the general commercial base adopted by the ministry.

The next example there shows how much the tax would be on that example property if we were assessed at regular commercial rates; it would be \$1.57 million, a considerable amount less.

The bottom half of the page measures the approximate impact of the proposed reforms to the taxes on that individual hotel example. So it would go from \$2.8 million in 1992 to \$2.9 million in 1993. In 1994 it would reach \$3 million in taxes on one hotel.

To continue, Bill 94 has just become available for review. We think we are in a position similar to that of other ratepayers. We have not had time to fully digest all of its implications. We believe, however, that this legislation is a radical departure from historical and proper connection of assessment to taxation. We think that a heavy line is being drawn between the consequences and responsibilities of assessment as opposed to the consequences and responsibilities of taxation.

Are our members better off? We have serious doubts that this departure puts them and many other ratepayers in any better position. Certainly all rights to appeal assessments are protected, but the tax relief on a successful appeal can be diminished to an inconsequential amount. It may be that our members and other ratepayers are being left with ineffective appeal rights.

In the past, in order to be successful in assessment appeals, hotels have been required to prove that they are more overassessed and therefore more overtaxed than other hotels, which themselves are overassessed and overtaxed compared to commercial properties generally. Will they even be permitted to do this if clawbacks render the tax relief inconsequential? What is a reduction due to reassessment? Are we correct that there will be an entirely new forum for appeals to deal with questions such as this, administered by the municipalities actually collecting the taxes? If these important decisions are to be made by the area municipalities' councils, is it fair to insert a provision that a confirmation or alteration of the adjustment of taxes is final and binding with no appeal rights? I think I heard a gentleman sitting over there talking about this. Well, it isn't fair. There's no appeal process.

We respectfully urge this committee to report to the Legislature that more time is required to understand the full significance of Bill 94 before the die cast is set for the next five years.

Thank you. I'm willing to answer questions.

**The Chair:** Time for two questions. Mr Stockwell and Mr Wiseman.

**Mr Stockwell:** I agreed with you right till the end there, and I think that would be really, really silly of your association to request that it be delayed, considering the dilemma that you've found yourself in for the past 25 or 30 years.

**Mr Powell:** I don't understand why you think we would be silly when there's no benefit to us.

**Mr Stockwell:** There will be, as the process kicks in over five years or so and your reductions get kicked in and reduced.

**Mr Powell:** We'll still be overtaxed.

**Mr Stockwell:** You'll always be overtaxed, but I suppose 10% of something is better than 0% of nothing, and I guess that's the dilemma that you're faced with. Let me just go to the question, though. Maybe we can have a discussion about this later, but take my word for it, 10% of something is better than 0% of nothing.

I know of a hotel in Etobicoke that pretty much went out of business because of local tax problems, and I think your particular situation is maybe a macro view of everybody's problem who has been overpaying in a micro sense. They've had no opportunity to appeal their taxes because everyone around them is overassessed and everyone in the hotel industry is overassessed, so you can't very well appeal and point to other hotels because they're all overassessed as well.

**Mr Powell:** And the appeal process makes us compare ourselves to other hotels.

**Mr Stockwell:** Exactly, and when you're in my neighbourhood or a neighbourhood in Etobicoke and they say, "Okay, appeal your taxes," but everybody you appeal against on your street is overassessed, it makes the appeal process a flawed process.

My question is, if you suggest that we hold off and not approve this, would you be looking for some plan to be put in place that would seek to give you a full reduction of your taxes?

**Mr Powell:** What we are really seeking is to get our assessments reduced to the regular commercial level of taxation. Why are hotels singled out for treatment at a different level?

**Mr Stockwell:** Why are some home owners singled out for a different level? That's the \$64,000 question and we can never seem to figure it out and for 42 years we've been battling about it. So you're prepared to give away what you have now with the—

**Mr Powell:** We don't have anything now. MVA doesn't give us anything.

**Mr Stockwell:** In the hopes that—

**Mr Powell:** These numbers explain that we'll actually pay more taxes in 1993 than in 1992, so what are we getting from MVA? We're getting no relief whatsoever and we'll still be going out of business just like the Sutton Place did this week.

**Mr Stockwell:** So you don't feel that there's any process built up or put in place that will reduce it?

**Mr Powell:** We are desperate. We're going out of business.

**Mr Hutchinson:** No, we feel they are losing rights; in fact, they may be losing rights because even in the past,

although it was unsatisfactory, a hotel could appeal and compare to another hotel and say, "Relative to that hotel, we are overtaxed," and they could be successful. There weren't major successes, but the percentage reductions in the taxes were significant because the taxes are so high in the first place.

What we've seen now is the possibility that even the traditional right to appeal an assessment and have that assessment reduction be reflected in a tax reduction is being removed.

**Mr Stockwell:** So you're getting no reduction at all under Bill 94?

**Mr Hutchinson:** It's minimal. The report that was supposed to accompany this brief summary examined it on the basis of a permitted 30% calculation and it was insignificant. It's not going to help the hotel industry.

**Mr Stockwell:** So the 30%—

**The Chair:** I'm afraid I'll have to move on to the next question. I'm sorry.

**Mr Powell:** Even that was insignificant; now it's down to 12%.

**Mr Stockwell:** So that's very insignificant—

**Mr Powell:** Absolutely. The increase in the mill rate will cause an increase in taxes. It will overcome that decrease.

**Mr Stockwell:** I know.

**The Chair:** I'm sorry, we'll have to move on to the final question.

1640

**Mr Wiseman:** Very quickly, basically you're saying that none of your hotels anywhere in the Metro area is going to have decreases. The second thing—and this question is more directed to the ministry—is from the letter that Alan Tonks has written to you, and it says, in the second paragraph, "I have read the salient portions of the report and will be raising your concerns with the province to endeavour to persuade them to amend the Assessment Act to assess hotels differently."

My understanding is that Bill 94 complies with the requests from the Metropolitan council and that none of its requests was left out. So I would ask if the parliamentary assistant could in fact give us some assurance that we have not left anything out of this bill that would pertain to a request from Metro to meet this request.

**Mr Mills:** As the letter says, Mr Tonks says we "will be" raising your concerns, and it's our understanding that these concerns haven't to date been raised, although they very well may have been raised with the Ministry of Revenue, but not with Municipal Affairs.

**The Chair:** I'm sorry, I'm afraid our time has run out. I want to thank you both for the presentation you made and the larger document.

**Mr Powell:** Did everyone get the larger document?

**The Chair:** Yes, we did.

**Mr Powell:** I appreciate your interest. Thank you very much.

#### PARKING AUTHORITY OF TORONTO

**The Chair:** I'd like now to call the Parking Authority of Toronto. If those representatives would come forward, please.

**Ms Poole:** Mr Chair, might I ask a question?



**The Chair:** Yes.

**Ms Poole:** I just wondered why a representative from the Ministry of Revenue was not at the table. We are dealing with assessment. Obviously it is a piece of legislation which has carriage through the Ministry of Municipal Affairs, but it deals with the Assessment Act, it deals with assessment.

**Mr Mills:** We have a Ministry of Revenue person here who, on demand or request, would come to the table, but we've only got so much space here. The gentleman is seated at the back of the room.

**Mr Wiseman:** The parliamentary assistant is here.

**Ms Poole:** Yesterday, when I asked about whether the Ministry of Revenue had considered whether people had the right to appeal, I didn't receive that answer. So I just thought there was no representative here.

**The Chair:** Please introduce yourselves and go ahead.

**Mr Norris Zucchet:** Thank you. My name is Norris Zucchet. I'm the president of the Parking Authority of Toronto. Here with me this day as well is Mr Dan Manczur, the president of CUPE Local 43, which is the union which represents the employees of the Parking Authority of Toronto.

I've handed to the clerk a letter I have addressed to you which effectively outlines our concerns in so far as the Parking Authority of Toronto is concerned. I would draw your attention to the last page, which effectively is a point-form summary of the main points that I will try to present to you and the committee as a whole, explaining the concerns we have at the Parking Authority of Toronto.

First of all, again let me thank you for the opportunity to address this committee. We have for the last number of months been dialoguing with a number of people here at the province, in the various ministries, and also at Metro and the city to plead our case, if you will. Hopefully, today I will be able to do the same. Following my brief remarks, Mr Manczur would like to say a few things representing the employees of the Parking Authority of Toronto.

By way of background, the Parking Authority of Toronto operates approximately 15,000 public, off-street parking spaces in just over 90 locations throughout the city of Toronto. We also have a few locations that are just outside the boundary of the city.

We are financially self-sustaining. We do not use taxpayer money to finance our operations and we compete in the private sector marketplace in so far as parking is concerned.

In 1992, the authority paid \$5.4 million in realty taxes and \$1.3 million in business taxes, for a total of \$6.7 million. We paid this through a payment in lieu of taxes, which is the requirement that we are captured by in the current Assessment Act.

We are very concerned about the overall introduction of MVA at this point in time. It certainly couldn't come at a more inopportune and inappropriate time in so far as our economy and in so far as the parking business as a whole are concerned. I won't dwell on all the arguments that are being made in terms of the fairness and why now and why not now, but I will try to identify one gross inequity which we believe was not contemplated by the plan as it was prepared by Metro and should not be allowed to be proceeded with in terms of the legislation.

Effectively, the problem stems from the fact that the current MVA plan would have all entities that pay grants in lieu of taxes assessed in the full amount, that is, 100% MVA, 100% tax increases and decreases, whatever the case may be, and although it is not specifically stated, we have been advised that the Parking Authority of Toronto would fall into this category. By falling into this category, the Parking Authority of Toronto would not receive the same capping and withholding privileges other commercial parking operators will receive as a result of the implementation of this plan.

Based on these current assessments that we have received to date and based on 1992 mill rates—that means not next year's mill rates but this year's—our taxes would increase from \$6.7 million to \$19.4 million. Quite frankly, we cannot sustain an increase of roughly \$13 million a year, when you consider that last year our net profits from parking operations totalled \$1.8 million. Literally, this would mean the end of the Parking Authority of Toronto after 40 years of service and providing a service to the motoring public.

The end of the Parking Authority of Toronto means the end of 300 jobs. It would mean the loss of all tax revenues, not just the business and property taxes but also the glorious commercial concentration tax which we pay to the province on an annual basis, which last year totalled some \$4.4 million. Also, if we have to close down our operation, we would effectively be introducing 15,000 free parking spaces into the marketplace, something which we feel would have very dramatic and negative effects on transit as well as the whole parking marketplace.

From our perspective, the MVA plan must be changed to provide municipal parking authorities and the Parking Authority of Toronto with the same capping and withholding privileges other commercial parking operators will receive. I'm here today to recommend to this committee that it recommend to the Legislature that the minister use the powers of subsection 241.14(6) of the legislation to introduce by regulation the same protection measures to the authority and other municipal parking operations that other commercial enterprises would have. This would remove any uncertainty hanging over our employees and the future of the parking authority and would certainly rectify an inequity that was never meant to be, as far as we understand in our discussions with a variety of people who were responsible for drafting the plan.

We have also in the past suggested as an alternative to that recommendation that the legislation have a specific definition in the legislation to define municipal parking authorities as commercial enterprises and thereby protected by the commercial capping provisions and withholding provisions of the plan. That is what we're after. We're not after a free ride. As one of the previous members suggested, we're willing to take the 10% and 5%, but we're not willing to take a 100% hit. I think Mr Manczur would like to say a few words.

1650

**Mr Danny Manczur:** Thank you for the opportunity. Not too often do you see union and management get together on an issue and work together. On this issue we are together.

I just took office as president of Local 43, and one of the first phone calls I received was from a parking authority member saying, "What's happening to my job?" I said: "Hold

on. What's happened to your job?" He said, "Am I going to have a job in the future?"

When we heard what's happening, Norris contacted us and we decided to approach you together. We are in full support of Mr Zucchet's presentation. We're in full support of management's presentation.

We're afraid that by increasing the tax on the parking authority, it's going to cost us 300 jobs. People are very uncertain, very anxious to hear. We're talking to them. We say: "Don't worry, we're going to be talking to some people. We're going to be talking to the committees." They say, "Don't tell me not to worry, because we know what's happening out there."

To us that would be a disaster. To 300 people that would be a great disaster, so we'd really appreciate it if you look very seriously at this concern and address this problem and use section 241 to include this as a commercial establishment.

**The Chair:** Thank you very much. We'll move to questions then. Ms Poole, Mr Mammoliti and Miss Marland.

**Ms Poole:** I was just looking at the section of the act where you are precluded from having the cap, and I believe it's 241.14.

**Mr Manczur:** That's correct.

**Ms Poole:** You were included as an "excluded unit," along with vacant land, railway rights of way, pipelines—which I don't think there is a dramatic impact on because they're in their separate category—"or a unit in respect of which an area of municipality is eligible to receive a payment in lieu." Are there bodies other than the parking authorities which have been hit by this "payment in lieu" category?

**Mr Zucchet:** Yes. As I understand it, obviously people like the Toronto Transit Commission also make payments in lieu; Ontario Hydro and a few others, crown corporations and organizations of that sort.

I'd have to suggest to you though, with respect, that we are quite unique in that we are in a competitive marketplace situation. These other organizations tend to have monopolies or are functioning in a very different economic environment than the authority.

All legislation that has dealt with the parking authorities always attempted to have us on the same level playing field as other private sector entities because we are in a competitive environment. That, I think, is what makes us unique and that's why, when we get lumped in with these other categories of uses, I don't think it's quite fair.

**Ms Poole:** It certainly doesn't seem to make much sense.

**Mr Zucchet:** No.

**Ms Poole:** If it comes about that the government refuses to amend that particular section and your continuation under this section is ensured, there would be no alternative for you but to close down those parking lots.

**Mr Zucchet:** Well, that would be the ultimate alternative. There is a provision in the legislation which allows Metro to pass bylaws that might categorize us differently, but I have to say to you that this raises a lot of uncertainty. It doesn't give us any concrete assurances as to what may occur over the next five years.

Quite frankly, it doesn't make us very comfortable having to, shall we say, await another full-scale debate at Metro to have this possibility occur. As we understand it, it was never intended that we be put into this category with these other agencies. "It was an oversight; it was an error." Everybody's quite apologetic, but to this point no one has taken an initiative to rectify this gross inequity.

**The Chair:** Thank you. Mr Mammoliti.

**Mr Grandmaitre:** No supplementary, Mr Chairman?

**The Chair:** I'm sorry. The Chair apologizes, but if we're to stick to our schedule I've got to keep one question per caucus.

**Mr Mammoliti:** I'm going to have to disagree with you in terms of nobody dealing with the issue. We've left a provision in the bill that would allow Metro to do just this.

**Ms Poole:** They're going to give up \$13 million a year.

**Mr Mammoliti:** Mr Chair, she consistently does this every time I speak.

**The Chair:** You have the floor, Mr Mammoliti, please.

**Mr Mammoliti:** This clause is within the bill and I guess my question to you is, understanding that a category should be set up and understanding that it's Metro's responsibility to do that under a particular bylaw and understanding that the province's hands are tied, because realistically this is a Metro proposal, Metro has asked us to implement this, are you going to go back to Metro and are you going to say: "Look, the legislation is open. You should be doing something like this?"

**Mr Zucchet:** We've already been to Metro and we've had discussions with Chairman Tonks and Mr Richmond, the chief administrative officer. We get a lot of assurances, but I have to say to you with due respect, sir, that jeopardizing a firm of 300 employees and gross revenue of some \$30 million, and an organization that is self-sustaining and does not use taxpayer money to sustain itself, I think, is unfair.

**Mr Mammoliti:** Are you aware of the precedents this would set if the province were to put its hands in it?

**Mr Zucchet:** With due respect again, sir, it has made certain comments with respect to the resale of housing. I would suggest to you that we are not asking for any particular breaks. We're prepared to pay the taxes. We are asking for a definition, a clarification that would put us in the same competitive category as all the other private-sector parking operators throughout Metro would be in.

**Mr Mammoliti:** You're asking us to make an amendment to Metro's proposal, and that alone would create a precedent that would be very disturbing to all the councillors as well as Metro. I don't think they'd want their province to do that. We haven't done it in the past with any other municipality. Why would we do it with Metro?

**Mr Mills:** Could I just have a word, Mr Chair?

**The Chair:** I'm sorry. We'll have to move on to Mrs Marland if we're to keep to the times we agreed to. I said we'll take one person from each caucus. If at the end you wish to make a clarification, we can do that.

**Mrs Margaret Marland (Mississauga South):** I simply would say to Mr Mammoliti, no, you haven't done it before with any municipality, but the interesting thing is that if we're



lucky, your government won't get the opportunity again either.

One of the things I wanted to ask the deputation was, you mentioned that this year you have paid \$4.4 million in the commercial concentration tax to the province.

**Mr Zucchet:** That's correct.

**Mrs Marland:** That's just in 1992?

**Mr Zucchet:** That's correct.

**Mrs Marland:** Since the Liberal government introduced the commercial concentration tax, which I think was in 1989—

**Mr Zucchet:** In 1990.

**Mrs Marland:** In 1990 was it? Prior to its fall from power, I guess.

**Mr Grandmaître:** Four months and three days.

**Mrs Marland:** Thank you. Four months and three days prior to your fall from the throne.

You must have experienced a tremendous reduction in business as an impact of the fact that you had no choice but to raise the parking rates in order to pay the tax and to operate, so I'm wondering—last night we had CP Rail here trying to explain to these socialist government members that there's a tremendous loss of jobs as part of this issue with market value assessment. I hear that you're saying the same thing. If they don't care about some of the issues, you're pleading for the job aspect as well.

Does it also not become a broader question in terms of jobs if people who need their cars in order to do their jobs end up either not being able to afford the parking rates because that's where you have to hike them to, to at least to balance out at the end of the year, or secondly, there won't be the parking spaces available for them, so it would have a direct impact on their ability to do their jobs where they need vehicular transit and not public transit?

**Mr Zucchet:** Ultimately, I think if we go out of business—first of all, we can't increase the rates to collect an additional \$13 million a year. It's just an impossibility, and that's without any increases in 1993 from general taxes. If we do close down, the scenario would be that the parking spaces could come on market as free spaces which would send a lot of other commercial enterprises out of business and do a lot of damage to the whole transit usage scenario in Metropolitan Toronto, as far as I'm concerned.

**Mrs Marland:** Thank you, Mr Chairman.

**The Chair:** Thank you. The parliamentary assistant has a point of clarification.

**Mr Mills:** I'd just like to make a point clear, that this socialist government, to use Mrs Marland's phrase, heard your concerns. We heard them. We made the changes in the legislation that will enable Metro to make it easy for you, will allow it to create a special category for this purpose to handle your particular problems and to allow a cap of 25%, rather than hit you with 100%. We have heard you and made that in the legislation. I just want to make that clear.

**The Chair:** Do you want to comment on that?

**Mr Grandmaître:** Not "shall," "may."

**Mr Zucchet:** As I said earlier, there is a clause in the legislation that would permit Metro to do this. There is no guarantee that it will occur, sir.

**Mr Mills:** But I just want to say, sir, that this government heard your concerns and we changed the legislation to enable Metro to meet your concerns.

Interjections.

**The Chair:** I think the point has been made. Order, please.

1700

**Ms Poole:** On a point of order, Mr Chair: The parliamentary assistant just raised a point of clarification. I think another point of clarification is that \$13 million is the amount that Metro would have to forgo in order to pass this special bylaw, and it simply is not going to do it. The only relief they can get is through provincial avenues, and you've copped out.

Interjections.

**The Chair:** Order, please. I think the points have been expressed. I want to thank you for coming before the committee and making your views known.

**Mr Manczur:** Mr Chairman, can I make just one comment quickly?

**The Chair:** Briefly, please.

**Mr Manczur:** To Mr Mammoliti, I am a public employee. I've worked for Metro for 22 years. I worked in solid waste management, which was one of the most profitable gold mines in the country, I would say. Right now Metro is wiping it out. That's why we want to stop this at this level, before it goes to Metro.

**The Chair:** Thank you very much. We appreciate your coming before the committee.

#### PARKING AUTHORITY OF NORTH YORK

**The Chair:** I now call upon the Parking Authority of North York, if you would be good enough to come forward and introduce yourselves.

**Mr Mammoliti:** Mr Chair, if I may, while we are setting up, some clarification?

**The Chair:** Yes.

**Mr Mammoliti:** Earlier I'd asked a group of people to explain the size of their homes and the value of their homes, and the answers that were given to me weren't really satisfactory. I did some checking and that home is worth \$1.3 million. Earlier I said I was very sympathetic to the \$11,000 that they're paying in tax. I want to remove that comment I made.

**The Chair:** Gentlemen, from the Parking Authority of North York, perhaps you would be good enough to introduce yourselves and then please begin your presentation.

**Mr Robert Yuill:** Mr Chairman, and members of the committee, my name is Robert Yuill. I'm the chairman of the Parking Authority of North York and I have with me Mr Nick Spensieri, the director of the Parking Authority of North York.

**The Chair:** Welcome to the committee, gentlemen. Please go ahead.

**Mr Yuill:** We appreciate the opportunity. First of all, we apologize for not bringing down sufficient briefs to cover the

committee. We were unaware that it would be this size, and we would gladly send additional ones.

**The Chair:** We are having copies made now.

**Mr Yuill:** We are basically in the same position as the Parking Authority of Toronto. Our position here is not to support market value assessment or criticize it. We're here to make one particular position and that has to do with the effect it will have on the parking authorities.

There are three parking authorities in Metropolitan Toronto. There is the Toronto parking authority, the York city parking authority and we, the Parking Authority of North York. We are relatively new and we have, in our opinion and in the opinion of the council, done a fairly good job in our work here. We are charged with the responsibility of providing parking at reasonable rates in the city of North York and to be no burden to the taxpayers of the city of North York. That is quite clear.

The agreement is that the city of North York will receive 50% of any surplus we have. This particular program that is coming, market value assessment, under its present regulations, would eliminate more than all of that. It would take \$168,000. I think we made a little over \$150,000.

In effect, if this goes in the way it is, the Parking Authority of North York is bankrupt. I should hope that the provincial government is not in a position to put a body like us into receivership. We have no purpose in operating further if we cannot operate in the black.

This proposal, I guess you would call it, under section 241.14(1) says that we will not be treated the same as our competitors. When you introduced the commercial concentration tax, you said we shall be treated the same and you charged us. You took most of our profit then. You entered into the real estate business, which I was very critical of. However, that's history.

You said at that time that we are commercial properties. Now, when this bill comes in, you're saying we are not commercial properties and we shall be treated differently. All we ask is a very simple amendment. Treat us exactly the same as you do the other commercial parking businesses. You did it when you put in the commercial concentration tax and we see no reason for you not to make this very minor amendment.

As has been pointed out earlier, the Metropolitan council can do this. Perhaps when they brought in this recommendation, it was an oversight. The authorities we have spoken to indicate it was an oversight on their part. They didn't realize how it would affect the parking authorities. It is now, in our opinion, your responsibility to do this minor amendment.

We operate 9,100 off-street parking spaces. If this goes through and we have to pay the full MVA tax increase, there is no question but that these parking facilities will cease to exist as far as the operation of the city of North York goes. What will happen, we don't know. We can see that the city of Toronto and the city of York will do the same thing. There will be chaos as far as parking is concerned. I believe a total of about 30,000 parking spaces will suddenly explode and disappear, or will become unavailable. What will happen, nobody knows. The way it's working now, it's working fine. It's something we're proud of, it's something Metro's proud of and I think it's something you should be proud of.

We see no reason for you to object to a very small, minor amendment, and that is to treat us the same as you're treating all the commercial operators of parking authorities. We support the recommendation the Toronto parking authority has made.

**The Chair:** We have a number of questions. I have Mr Grandmaitre, Mr Mills and Mr Turnbull.

**Mr Grandmaitre:** In North York, do you pay a payment in lieu? Is that how it works with you?

**Mr Yuill:** I think we're playing with words. We got into this—we pay a grant in lieu, which is a payment in lieu. Yes, that is the problem. We pay the grant. This came to that category and what happened at Metro when it was bringing this recommendation in is that it didn't realize that. When we pointed it out, they said they had made a mistake. To my knowledge, they will support you if you make this amendment.

**Mr Grandmaitre:** You'll have to talk to the government because it's not too interested in moving on it.

**Mr Yuill:** To us, you're all the government, sir.

**Mr Grandmaitre:** Let's go back to the grant, or the payment in lieu. Does it represent 100% of your tax bill? Because usually a grant in lieu, or a payment in lieu, is not full taxation.

**Mr Yuill:** Yes. Because we are an authority, we, like other enterprises in North York, don't pay taxes; they pay a grant in lieu of taxes, and ours is 100%.

**Mr Grandmaitre:** I realize this, but what percentage of the total tax bill does your payment in lieu represent? Is it 80%, 85%, 90%?

**Mr Yuill:** It is 100%.

**Mr Grandmaitre:** It's 100%? Well, if it is 100%, how come it's called a grant in lieu or a payment in lieu?

**Mr Yuill:** Well, sir, that has to do with the bureaucracy of North York and the technicalities of this, and I wouldn't comment on it.

**Mr Grandmaitre:** It's not only in North York.

**Mr Yuill:** That's the way they do business.

**Mr Grandmaitre:** It's the Toronto parking authority as well. It's a payment in lieu. This is what I can't understand. If it's a payment in lieu, usually it doesn't represent 100% of your total tax bill, but in your case it does. So you shouldn't even be in that category, if you're paying 100% of your taxes. You shouldn't be in that category.

**Mr Yuill:** We would like not to be, yes.

1710

**Mr Mills:** I would like to thank you for coming with this presentation. I have just a couple of things to ask you.

Are you aware that the Minister of Municipal Affairs indicated your problem to Chairman Tonks, and that Mr Tonks indicated to the minister that he recognized you had some concerns, and, having had that exchange of words allowed the government to put in the clauses I described to the previous parking people?

So my final question is, when this bill is passed, will you then apply to Metro, having taken into consideration that the minister raised it with Mr Tonks, they're all concerned about it and this is really why this is in the bill?



**Mr Yuill:** Yes, we have discussed this with Mr Tonks and his staff. The reason they don't want it to come back there is that they don't want a full-scale debate opening up in the Metro council like it was before, where they had chaos. They don't want that. They would prefer to have it amended so that it comes back and it is done and it's not going to be debated as it was before. Because if they change it for us, there will be all sorts of delegations, as I understand it, from CN, Toronto Hydro, Ontario Hydro and other bodies demanding the same things.

The only difference here, as was pointed out before, is that we are in competition with commercial operations. We cannot raise our rates to withstand this impact. Ontario Hydro etc can, but we can't. Therefore, we're out of business.

The point I'm getting at is that it was my understanding when we left that Metro would prefer that this amendment be made by the government of Ontario in approving this. Therefore, when it gets back there, there won't be any debate.

**The Chair:** Mr Turnbull, last question.

**Mr Turnbull:** Welcome Bob, it's good to see you. One of the great problems we've had is that the government would like to perpetrate the myth that this is not MVA. It's obviously MVA to you. What else would it be?

**Mr Yuill:** I'm not quite clear. It is MVA—

**Mr Turnbull:** Well, they're telling us it's not MVA. They campaigned on a platform in the last election that they were against MVA, and now they're trying to suggest that the reason they're voting for this is because it isn't MVA.

**Mr Yuill:** I wouldn't comment on that, sir. They're the power in control and they have the authority to make this change. That's why I'm appealing to the government, which includes all parties, as far as I'm concerned, to make this small amendment. It will affect and bankrupt the parking authorities of Metropolitan Toronto.

**Mr Turnbull:** You'll appreciate that this all stems from the final deal cooked up in the last two hours of debate at Metro. All of the deputations that were made at North York—I was there when they were made—and in fact in the other municipalities were all talking about MVA in its original format as proposed, not this format cooked up in the last two hours. Would it not be reasonable to open it up for discussion again and get the municipalities to understand and vote on this issue again?

**Mr Yuill:** As the chairman of the parking authority, I will stay out of that completely, because we are a creature of the city of North York, and the city of North York has taken a position and it would be unwise of me to go contrary to it.

**Mr Turnbull:** But you took a position on the original market value and a suggestion that was put forward in North York. It was not the deal that was voted on at Metro.

**Mr Yuill:** That is correct. As I understand it, the deal was made by certain people the last day. It was a quick deal, a quick fix, and it presumably got sufficient votes to get through. I don't like that way of doing business. Obviously, what happened was that there was one small oversight, and this was it. I'm sure if they were aware of it at that time they would have excluded us.

**Mr Turnbull:** The railways feel there was more than one small oversight and so does Hydro.

**Mr Yuill:** The railways are different, sir. They are not in competition, as we are, with the lot next door, which you're giving—

**Mr Turnbull:** The railways are in competition with road transport.

**The Chair:** I'm sorry, our time is up. We want to thank you for coming before the committee. We have copies that have been circulated to all of us.

**Mr Yuill:** Thank you. I look forward to your positive support.

**The Chair:** Optimism is always a good force.

#### TORONTO AUTOMOBILE DEALERS' ASSOCIATION

**The Chair:** I would now like to call the Toronto Automobile Dealers' Association to come forward. The Chair sees someone who has sat in this room before, so welcome back to these surroundings. Would you be good enough to introduce yourself and your colleague, please.

**Mr Bill Davis:** Thank you, Mr Chairman. It's good to be back. I'm Bill Davis. I'm the director of government relations for the Toronto Automobile Dealers' Association. Accompanying me this afternoon is Mr John Philips, president of Mills and Hadwin, a dealership in Toronto.

Our association represents 350 new-car franchise dealers located in the greater Toronto area. Our members employ some 21,000 individuals who are highly trained professionals and technicians in the automobile industry.

This afternoon I'm here to share with you the concern of our 130 members and their employees who work in dealerships located in Metropolitan Toronto and to illustrate the impact the proposed reassessment plan using 1988 market values will have on their business and employment opportunities.

The economic climate of the 1990s, fueled by the recession, has dramatically impacted the automobile industry. Compared to the same period a year ago, car sales are down 12.5%, truck sales are down 8%. In the Toronto region, declining sales and the slow recovery of the economy over the past year and a half has resulted in the termination of over 800 employees from our dealerships.

The fragility of the automobile industry, which is one of the major components in the economic engine of Ontario, was recognized in last year's provincial budget when the Honourable Floyd Laughren, Treasurer of Ontario, did not incorporate into his budget the proposal of the Fair Tax Commission to increase and to extend, to vans and light trucks, the gas guzzler tax. The provincial government recognized such a measure would drive the automobile market deeper into the recession and exacerbate the unemployment situation.

Our association does not oppose some form of market value reassessment, providing that proposal is fair and equitable to all parties. However, it is our opinion that the revised reassessment proposal before you today, the third one Metro has created—and this one in the wee dark hours of the night after a marathon debate—is neither fair nor equitable.

Forty-four dealerships in the Toronto area will experience the unfairness of this system, because Metro will claw back

90% of the tax reductions they should receive to subsidize and fund capped tax increases in other sectors. The 10% solution for reassessment simply delays the inevitable consequences of higher taxes for the majority of our members for three years. Of the 110 dealerships whose realty taxes we reviewed, 66 dealerships would face significant tax increases under full market value assessment as originally proposed by Metro. Under the 10% solution now before you, 44 dealerships will have their tax increase capped by the 25% rule of 1995.

I would like to provide for you some examples of the impact of full market value assessment in some of the dealerships across Metro. Addison on Bay would have experienced a 325% tax increase, Downtown Acura a 396% increase in realty tax, Downtown Jeep Eagle a 208% increase, Centre Honda a 340% increase, Sisley Motors in North York a 132% increase, East Court Lincoln Mercury in Scarborough a 225% increase, and Islington Chrysler in Etobicoke 75%. And that does not incorporate the business tax increases, which we were not able to obtain at that time. Twelve dealerships would experience tax increases of over \$50,000 and six dealerships would see taxes increase over \$100,000 per year.

Yet members of the committee would point out that Metro's proposal is not full market assessment but a gentle tax increase of only 10% for 1993, and Metro councillors would quickly indicate that they have the interests of small business people at heart because, through their wise counsel, they agreed to cap the tax increase at 25% by 1995.

But the reality is that the province, Metro and the cities will significantly increase taxes to meet their 1993 budgets. It is possible and very likely, therefore, that small businesses will face an additional 7% to 10% increase, for total tax increases in 1993 of 17% to 20%.

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No small business, no dealership, can absorb tax increases of this magnitude in the economic climate of today. If in three years the economy has not recovered and business faces a 25% tax increase, it doesn't take a rocket scientist to determine that a large number of small businesses will no longer exist in the Metro area.

Let me attempt to illustrate the dynamics of a tax increase in a more succinct manner. A dealership normally realizes a return of 1% profit on sales. That means that for every dollar of profit they must generate \$100 worth of sales. What does that mean to our members facing a 10% increase in 1993 and a 25% by 1995?

Using an average price of \$15,000 for a new vehicle, the Mills and Hadwin dealership, for example, would in the 10% scenario see a tax increase of \$5,655, which translates into \$565,000 of new revenue that they must generate, or an additional sale of 36 vehicles.

If Mills and Hadwin are still operating in 1995, a 25% increase would mean a tax increase of some \$14,000; thus, that dealership would have to generate \$1.4 million in new revenue, or sell 181 new vehicles.

It is apparent that in the present depressed economy, it will be very difficult to achieve the additional revenues required to meet the tax increase.

If the provincial government approves Bill 94, the reassessment will result in some dealerships being forced out of busi-

ness, others will significantly reduce their staff, and the cost to purchase and repair vehicles will increase. These factors will fuel the recession and increase an already bleak unemployment profile for Metro, and stall any economic recovery.

Our association respectively suggests, in light of the following factors:

- The present depressed economic climate that exists in Metro and Ontario.

- The failure of Metro to undertake an economic impact study to determine the effect that a 10% solution and a cap of 25% would have on the commercial and industrial sectors of Metro.

- That the Fair Tax Commission will release in the very near future its report, which will address the issue and give recommendations for implementing any reassessment plan, which I've been led to believe indicates that Metro fails to meet 6 of the 12 criteria it outlines.

- That the Honourable David Cook, Minister of Municipal Affairs, and the Honourable Frances Lankin, Minister of Health, have indicated their opposition to full market value assessment.

That this committee therefore do the courageous thing and recommend to the Legislature that the following plan of action be implemented:

- Delay the implementation of the reassessment plan as proposed by Metro council.

- Request that Metro council establish a committee comprised of representatives from ratepayer groups, the business and industrial community and Metro officials.

That committee's mandate would include: review the present reassessment proposal; review and comment on the effectiveness of other reassessment models that do exist; consider the recommendation of the Fair Tax Commission on reassessment; undertake an economic impact study of any reassessment model approved by the committee; and within a year present to Metro council a reassessment proposal for approval that is fair and equitable for all the constituents of Metro.

Our association thanks you for the opportunity to share our concerns with respect to the reassessment proposal of Metro Toronto, and I would be prepared to answer any questions at this time.

**The Chair:** Thank you very much for the presentation. We'll begin with Ms Poole.

**Ms Poole:** Thank you very much for your presentation today. I particularly appreciated it because you've given a very constructive proposal for seeking an alternative solution. Mr Stockwell, who has been on the committee at times, has mentioned that the problem, in his view, with not passing this proposal is that all tax reform will stall. He said they've been waiting for 42 years. What you have proposed is that people not wait another 42 years for tax reform but that within a year Metro council would come up with this proposal. Did you at any time make this type of proposal to Metro council, that it has, in so far as is possible in this very, very emotional issue, a group of people who are willing to work together and find a solution?

**Mr Davis:** Yes, we made that recommendation to Metro council when we addressed them in letters we had written to



all the councillors. This is really a political issue in the respect that it has to do with re-election. It also has to do with bringing about some kind of concept to look at a reform of the tax structures in Metro and I would suggest to Mr Stockwell that he's not a Metro councillor any more, that he's a member of the provincial Legislature and that indeed this provides that opportunity.

It is important that you do impact studies so you have an understanding of how it affects the business community of the whole Metro area. In the kind of economic climate we're in now, I submit to you that you will see businesses go under. They will stop operating and you're going to increase unemployment. I just think that it flies in the face of reality to enter into this kind of program at this time when you can step back. Even the NDP government itself is bringing forth the Fair Tax Commission report on reforms in taxation. Let's take a look at all that stuff together and come up with a solution that's equitable and fair for everybody.

**Ms Poole:** You mentioned the impact on business and obviously you're referring to the 41,000 businesses throughout Metro that will receive the full 25% increase due to market value in addition to any normal, regular increases that the municipality and the school boards may levy. Were you aware that for any new business—and we're not talking about a business being sold to another business, but about newly created business—their business taxes will be based on full market value, and that if a business moves from one set of premises to another, again they are not protected by the cap as far as the business taxes are concerned, but they will be based on full market value? That is something that came to our attention recently and I think this is going to add to the devastation of the business community.

**Mr Davis:** No, we weren't aware of that. It will just simply destroy the entrepreneurial spirit which has built this province to the economic giant it is. That's what will happen.

**Ms Poole:** The question to be asked is if there will be any new business opened up in Toronto over the next five years if this plan goes through.

**Mr Davis:** I wouldn't open one.

**The Chair:** If I might, Mr Mammoliti has a question. It appears that we are going to start getting into bells shortly.

**Mr Davis:** That's all right. I know what bells are all about, Charles.

**Mr Turnbull:** Excuse me, Mr Chair—

**The Chair:** Yes, I'm sorry, I didn't have you down. If I may have the attention of the committee members, we are going to be getting into a series of bells shortly. I want to try to make sure that the two groups that are still here can present before that happens. I will allow questions if I could ask both Mr Mammoliti and Mr Turnbull to be brief because I know one group was here yesterday morning at nine o'clock and I want to make sure that they are heard as well. Mr Mammoliti, your first and only brief question.

**Mr Mammoliti:** Mr Chair, very quickly, we've sat in here for three days now and frankly I'm getting a little bit sick of hearing the negative aspects to this proposal. We haven't really talked that much about the positive aspects to this proposal.

You mentioned the impact on business. I know first hand that thousands of businesses within Metro are going to benefit from this plan—eg, Adidas, a shoe manufacturer that happens to be in my riding and is going to get a \$17,000 decrease in the first year and then another 10% on top of that in the second year. Do you not think that's a positive sign for the businesses that have been waiting for this decrease? Don't you think they're going to take advantage of this decrease? Don't you think that would mean some jobs in some of these areas? This is a positive side to all of this and it's part of the 57% of the people in Metro who are going to benefit from this.

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**Mr Davis:** Mr Mammoliti, I benefit. I benefit by \$50 or \$500, depending on whether it is full market or a 10% cap. But in the business community, what you need to realize is that we recognize that some businesses will benefit and some of our dealerships benefit, but they're clawing back 90% of that tax reduction. The other problem you have is that 60% of the businesses in Metropolitan Toronto will not benefit, and they're the ones that generate jobs. The residents who live in the suburban areas, who have been unfairly taxed, need to recognize that if there are no jobs down here, the tax base then moves on to the homes.

**Mr Mammoliti:** You said it: The people in the suburbs will benefit from this, the businesses will benefit from this, and we've got a number of people such as yourself coming here representing the business community and only talking about the negative.

**Mr Davis:** No, you didn't hear me, Mr Mammoliti.

**Mr Mammoliti:** I think it's an injustice—

**Mr Davis:** You didn't hear me. I'm sorry. You didn't hear me.

**Mr Mammoliti:** I think it's an injustice to the people who going to benefit.

**The Chair:** Order, Mr Mammoliti. Please allow Mr Davis to answer.

**Mr Davis:** I told you that 44 of our members benefit and I said the unfairness of the system is that the tax benefits they receive are being clawed back by Metro by 90% in order to fund the other areas that they've capped. So they don't benefit.

**The Chair:** We'll now turn to Mr Turnbull for the last question.

**Mr Turnbull:** It would seem to me, and I want to see if this is correct, with your knowledge of the auto business, that governments at various levels want to have it every which way. When they tax tenants in apartment buildings, it's taxed on the basis of assumed income value, which gives a value to that building, and tenants are terribly heavily taxed. In other words, they're saying the income value of that building equates to this market value.

In the case of automobile dealers, they want to divorce themselves from that concept because you've said that you have a 1% profit margin. Suddenly what you earn on a net basis is totally divorced, out of the equation. It looks as if they are taxing automobile dealers who have large lots based upon the potential value of it as a building site. Would you concur with that?

**Mr Davis:** Yes, we would concur with that. We think that's indeed what's happened. We have one dealership whose reassessment is somewhere around \$17 million and he couldn't sell it for \$2 million today if he tried.

**The Chair:** I want to thank you for coming. We all have a copy of your submission. Again, thank you for participating today.

#### NORTH TORONTO UNIVERSITY WOMEN'S CLUB

**The Chair:** I now call upon the North Toronto University Women's Club, if they would be good enough to come forward. Again, I would just note to members that bells may start ringing, but I think we'll be able to provide all of the time to this delegation, so we'll make sure we do that. If you would be good enough to introduce yourselves and then please begin, we have 20 minutes.

**Mrs Helen Banks:** I'm Helen Banks and I am the convener of the politics and law group of the North Toronto University Women's Association. My colleagues are Donalda McLean, Shirley Sims and Nancy Westcott. What we are proposing to do is to touch briefly on several aspects of the proposed legislation that concern us. We do thank you for the opportunity to make our presentation.

I want to speak briefly about the tax on small businesses, because to those of us who have lived so long in Toronto and have worked in Toronto, the concept of a metropolitan city, to include the suburbs and the downtown core, is a vibrant and exciting one. Even as the suburbs have grown, the core of the city has been maintained. We are very proud that Toronto has become known as an international city. We have created new complexes like Harbourfront and Market Square and at the same time we've kept our old neighbourhood shopping areas and their wonderful ethnic mix. The city has places like the Beaches and Chinatown and Kensington Market and High Park and Lawrence Park, to name a few. The streets are used by pedestrians and there is a relative feeling of safety, of raising your children in security and of being able to get to know the neighbourhood shopkeepers. We feel that in a city like Toronto, there was a vision when Metro was created that kept the core of the city alive, and that has been a very important aspect of our living in this core area.

Last night I happened to watch the presentation about the development between the province and the greater Toronto area of the planning for the future and that the greater Toronto area will comprise 6 million people in the future. But when you look at the map, it is a radius and the core is still there. We are concerned that that core should remain vibrant and alive.

It's vital to the ongoing vibrancy of this city that we support the maintenance of these neighbourhoods that I've spoken of. But with the proposed unreasonable increase in commercial taxes, we may well see a flight of small businesses to the suburbs. Empty stores and empty offices will contribute to increased crime, and without pedestrian traffic the streets will be abandoned and people will be apprehensive about using them.

We therefore deplore the excessive increase in commercial taxes. In talking with many of our local shopkeepers, whom we know personally, they tell us that they're only just covering their operating expenses. We are truly fearful that

the core of our great city faces deterioration if the dynamism of our neighbourhoods is allowed to decline.

The vision for Metropolitan Toronto has been a thrilling one. What is the vision for tomorrow? There is a lot of planning, but is there vision? Where is the political will to ensure that there is a vision?

**Mrs Donalda McLean:** I'd like to speak to market value assessment. When responsible government elects to impose a tax it must consider two main issues: Will the tax raise the required revenue and how will it influence the conduct of its citizens? Taxation is a very effective instrument of policy.

Market value assessment means a major change in residential and business assessment in the city of Toronto and will result in significant increases in the amount of taxes paid for street and community conveniences and for accommodation.

I recognize that there seems to be a notion that this is not market value assessment. What I would like to say is that it's reassessment based on market value as far as I can see, a presumed market value.

The natural outcome will be a move, not only of residents out of the city, but also of small businesses that now provide a street life. This is a cruel and insupportable handicap for a city that has been achieving success as a place for people, a city which is the envy of many American cities where it is already too late to enjoy what we propose to discard. Furthermore, MVA works as a disincentive for the improvement and renewal of aging city properties. The Metro government ought to show the same respect for taxation as an instrument of policy as do the senior governments.

Toronto is the largest city in Canada and has had to pioneer in developing ways to make concentrated living acceptable. The city has accomplished this over the years by learning from its own mistakes and from the mistakes of others and by devoting a great deal of effort and resources to comprehensive and careful and caring planning. One of the objectives has been to ensure that there is a mix of commercial development and residential accommodation in the central core. This has for years been a guiding requirement in approving new developments. An insensitive and heavy hand is now a crushing handicap.

In the dynamics of Toronto real estate any market value system is almost immediately out of date. The MVA proposes to use real estate values powered by galloping inflation in the 1980s, which peaked in 1988 and were much more exaggerated in Toronto than in other parts of the province. These inflated valuations will determine the taxes to be paid in a recession.

It is necessary to collect taxes for government programs, but no other tax has criteria for the levy that is as subjective and as uncertain as the MVA nor has within it such potential for injustice. At the present time our tax system is obsolete and unfair—we all know that—requiring a whole court system with its supporting staff to deal with tax appeals. Why introduce a new tax that will only exacerbate this situation, requiring even more judges and more staff in a time of fiscal restraint? For the average tax payer the legal costs of an appeal will be formidable; for many, prohibitive.

It would be a simple matter to adopt a formula which would allow the citizen to determine by a simple calculation whether or not the levy is correct, while at the same time



removing the necessity for continuously updating the assessment. The major federal and provincial taxes are ascertainable by objective criteria and the municipal property tax ought to aim for the same standard. Thank you.

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**Mrs Shirley Sims:** You've heard it before. North Toronto is a group of communities centred around shopping strips, schools and transportation routes. We have Yonge Street north of Eglinton and north of Lawrence, south Mount Pleasant and north Avenue Road, all of which encourage walkability and therefore safety. If these stores disappear, there won't be anyone walking on these arteries.

Today our 10-year-old neighbour can walk over and pick up a pizza or a sub or buy a Death of Superman comic book. When we walk over for dinner at the Moonglow we have a chat with the owner about our children who started kindergarten together about 30 years ago.

Just imagine for a moment what will happen when the dry cleaners, drug stores and watch repair shops leave and each store is empty. Healey's and Cowieson's survived the 1930s Depression. Now they are gone. They could not survive the recession. Olive's Handy Book Exchange moved into her son's store. He moved to Thornhill. She had not taken any money for herself for two years.

Some of the shops, such as Dan Young, offer delivery service. It enabled my cousin on Hillhurst Boulevard to stay in her home until she was over 90. The same is true for my mother who lived on Broadway until two years ago when she was 92. Malls don't offer delivery service. All they offer, besides shops and faceless vendors, is parking and a roof.

When older people can no longer remain in their homes because they cannot meet their taxes, they'll start demanding seniors' apartments and they will have to be subsidized as a result of the inevitable lowering of house prices due to the increase in taxes. Is Metro ready to start building these facilities for hundreds of people?

Then there are the nursing home facilities. At the present time there are no, or very few, such homes in North Toronto. The seniors will have to go to Scarborough or Etobicoke, where my mother is, and it now takes me eight miles to drive to see her when I used to be able to walk over to see her. Are these municipalities ready to accept and pay for North Toronto's seniors?

Finally, the centre of all this is the choice of 1988 as the watershed year for Toronto. Since that year values in North Toronto have decreased—witness the recent auctions, not to mention the numerous power-of-sale notices—but prices in nearby towns and cities have increased. MVA will decimate commercial and residential North Toronto. It is simply not just to penalize a community that has been safe and supportive for 50 or 60 years, a community that has obtained a balance for lower-, middle- and upper-scale income earners. Thank you.

**Mrs Nancy Westcott:** There are many aspects of the proposed legislation that I find distressing, not the least of which is that it is being rushed into law while the province's fair tax study is still under way and before the impacts of the proposed changes are studied and understood.

Today I wish to comment on only one aspect of the legislation which I think is particularly unfair and discriminatory and which will hit hardest at those residents of Toronto who sell their homes. The impact of increased taxes is phased in for most of the victims of this measure, but those who buy a house will immediately have to pay the full shot. This will result in making the purchase of resale houses less attractive to potential buyers who will demand a reduction in the price of the house.

It has been estimated by housing experts that the decrease in the value of a house will be by a factor of 15 to 20 times the tax increase. Thus, a \$2,000 tax increase would result in a decrease of \$30,000 to \$40,000 in the selling price of the house. This capital loss becomes in effect a highly discriminatory tax on those who are faced with selling their homes. For many individuals who are selling because of age, the value of the home represents much of their savings. Why should this group be penalized?

For this and many other reasons, we request that MVA be put aside until the Fair Tax Commission completes its work and the impact of whatever tax is decided upon is fully understood.

I grew up in Philadelphia and I go back to visit every year. The urban blight and the fear in which people live there have to be experienced to be believed. I'm haunted by the idea that due to insupportable tax increases, businesses and home owners will move out of Toronto, tourists will stay away and we will see our vibrant, livable city deteriorate into a wasteland ridden by dirt, crime and decay. Please let us not destroy what we are lucky enough still to enjoy. Do not let Toronto become another Philadelphia.

On behalf of all of us, I would just like to summarize our presentation. Significant tax discrepancies exist in Metro Toronto. We recognize the need for revision of some kind. We object to certain aspects of MVA as proposed because we fear their adverse impact on the city in which we live. People in businesses will leave the city for the lower-taxed suburbs. Values of city properties will be depressed. Small shops will be forced to close if they cannot afford to pay higher taxes. Street life will disappear. Personal safety will be threatened and police costs will go up. The essential nature of Toronto as a city of neighbourhoods will be destroyed. The business base of Toronto will be adversely affected. Most unfairly, the time-of-sale implementation of full MVA will in effect place the burden of the tax on the Toronto home owner when he or she tries to sell the house by lowering the value of the property.

We want an equitable formula for property tax reform. There are other methods which are fair and do not require frequent, expensive reassessment, for example based on lot size and house size, based on services required and blended formulas including these and other factors.

We have deliberately kept our presentations very brief because we understand that the demands upon your time are great. Do not assume, though, that the brevity reflects lack of passion or commitment. We are very concerned.

**The Chair:** Thank you very much for your presentation. We'll move to questions. I have Ms Poole, Mr Wiseman and Mr Turnbull.

**Ms Poole:** First of all, welcome to the committee. As the member of the Legislature who represents North Toronto, I

give you a particularly warm welcome. I think you've encapsulated the fact that North Toronto is a city of neighbourhoods. We have a lot of individual little neighbourhoods, but they're centred around small business, they're centred around people who very much care about their community and are very involved in their community, and one of the problems is that we in the city of Toronto now believe that way of life is in jeopardy.

A recent survey of businesses on the upper Yonge stretch in North Toronto showed that two thirds of the businesses said they would close their doors for ever if market value assessment came in. The government will point to the fact that Metro's plan provides a cap, but that's 25% tax increases over three years due solely to market value assessment.

In addition to that they have the ordinary, normal, everyday, every year increases one gets from Metro council, so you're looking at around a 50% increase. How many of our businesses in North Toronto do you think can survive under that onslaught?

**Mrs Banks:** It's very difficult, I think, to put a figure on it, but many of the stores along Eglinton Avenue, for example, have gone out of business several times. There is a small core remaining, and I think that will happen in all of the neighbourhood stretches, that you will find vacant stores.

**Ms Poole:** Yes. In fact we had a presentation today from a Mr Cazaly, who appended a sheet of paper which indicated that 13 businesses, as of November 1992, have now closed their doors in less than a mile along Yonge Street and 12 businesses in an even smaller stretch on Avenue Road. It's already happening, as it is throughout Metro because of the recession, but for the city of Toronto and parts of North York it is going to be absolutely devastating if this comes in.

One other thing, if you could comment: I think a point every one of you made is that Toronto is a livable city. One thing we love about our city is that it hasn't had the urban rot and the blight they have in other major urban centres. Can you just tell us, if this plan comes in, do you see any way that our neighbourhoods, our livability, can survive?

1750

**Mrs Banks:** May I speak personally? I have just found out that I'm one of the lucky people to have my taxes increased 100%. The house in which I'm living I have lived in for 25 years. It is evaluated now, in 1988, at \$455,000. Even if it were to sell for something like \$300,000, I think you would find people reluctant to pay \$7,600 a year tax. So I think I am not in a position to be able to sell my house and I will have to live there until such time as I may go into a seniors' home, but it is an untenable position.

I have worked for 45 years; I've been a single parent; I have maintained my home. I'm very proud to have been able to do so, but at the present time it is very frustrating.

We have always felt in Toronto that when Metro started, it started to help out the suburbs. Some of the suburbs were absolutely out of money and there was a lot of feeling at the time among the people who lived in Toronto that we should be helping the suburbs to deliver the services, education, police, fire, and it has been done and there is no feeling of regret about that. But it is ironic that in 1992 we have the suburbs

not caring really what happens to the core of Toronto and one wonders whether gifts are often resented and forgotten.

I find it untenable that the taxes will go up as much as they have on my house. They will go down in the suburbs, but people in the suburbs are living in a different kind of setting to the one I am. My friends who live in the suburbs have a big lot. I have a 30-foot lot in my house. I have a long backyard. I do not have a swimming pool. I do not have several bathrooms. I have one and a half bathrooms. There is no way my house is going to sell for \$455,000, ever.

As Dianne pointed out, or someone pointed out, it's one of the ways in which you plan for your retirement, that when the time comes for you to sell your house, it will help ease the pangs of old age. But it's not going to happen.

I don't know whether I've answered your question, but I feel very strongly about it. We have tried to be very reserved about pointing a finger at anyone. We don't think anybody gets anywhere that way. We're all in it together. What we would like to see is a little appreciation on both sides for the positions people are in and to have a fair tax.

**Mr Wiseman:** Thank you. Unlike most on the panel, except for Mr Grandmaître, Mr Mills, Mr Beer and myself, we do not live in Toronto. What we have heard so far is that this plan totally disregards the needs of hotels, the railways, GO trains, businesses, homes, parking garages.

What you're asking me to do fundamentally is to come from outside of Metropolitan Toronto and say to the regional councillors who voted in favour of this that I know more than you do; that I believe all the people who say you don't care; that you don't know what you're doing and that there may be some malevolent reason for you to be voting in favour of this deal; that in fact this level of government, the provincial level of government, has to step in and act as sort of the daddy, the know-it-all, to bring an errant misbehaving child back in line to do what is right.

In fact, you're asking me to vote to overrule democratically elected regional councillors who say this is a good deal. They say this is a good deal. They know this community, or they're supposed to know this community, and what you're saying to me now and what everybody else has said—not everybody else; the mayor of Scarborough didn't appreciate some of my comments either—but what you're basically telling me is that these people don't know and don't care.

**Mrs Westcott:** You know, though, that this was extremely controversial and hotly contested every step of the way through the procedure and that "they" doesn't mean all of the Metro councillors. It was a very close vote and there was a great deal of opposition to it all along the way. The point is that the MVA was rushed through for certain political reasons, while there is still a Fair Tax Commission studying fair taxes.

**Mr Wiseman:** I assume they would have known that.

**Mrs Westcott:** I'm sure they did, but I'm pointing out to you that there is a Fair Tax Commission at work at the present time, and we've suggested that MVA not be implemented until the findings of that commission are heard and also the impact of this proposed tax is understood.

**Mr Wiseman:** The point I'm trying to make is that the case is being built for wanton disregard of the Toronto needs by the surrounding communities, which want to get lower



taxes. So what you're asking me to do is to turn around and say that these regional councillors who sit on Metropolitan Toronto council don't know what they're doing, don't care about what you're saying and that they're going to totally destroy Toronto for the sake of their own political hides, or however you want to put it. That, in a nutshell, is what you're asking me to think about.

**Mrs Westcott:** That is a gross oversimplification, though.

**Mr Wiseman:** No. I'm sorry, I don't agree with you. We've heard that the hotels will close, that the railways will shut down, that the businesses will close and leave and that you won't be able to sell your houses. We've been hearing this for three days now.

**Mrs Westcott:** Would you come into the province of Ontario and set up a business after January 1?

**Mr Wiseman:** Yes, absolutely.

**Mrs Sims:** On Yonge Street?

**Mr Wiseman:** That would depend on what the business is, because as a person who has taught economics and has actually run seminars on how to start your own small business, I would be very careful about where and how I would do it and what product I would choose to put out there. One would have to measure what the fixed costs were, what the average costs were, what the variable costs were, what the taxes were and how all of this meshes together. It may well be that some of the products may not sell. Some products do. It depends.

**The Chair:** I'm just going to have to jump in because time is going down—

**Mr Wiseman:** I'm sorry. You can understand my dilemma in terms of what you're asking me to do.

**The Chair:** We'll go to Mr Turnbull.

**Mr Turnbull:** Thank you very much for the very good presentation.

This little interplay that we have illustrates very well the frustration I have in these committees. We are not allowed to have a discussion directly with the people and challenge the statements that are being made. I have to work through you, so excuse me.

The basic problem is that the outer municipalities, which will get a net decrease in residential—and remember there are more residential voters than there are anything else—have more votes on Metro council, so they say, "Oh, we want it." My position is very clear. I am not against fair taxation. If you are paying too little taxes, I would be the first person to say you should be paying more.

However, the contention I have is, the proposal before us is not to replace an unfair system with a fair system; it is to replace an unfair system with a different unfair system. We have an opportunity to correct a lot of ills and we should be doing it. As you have correctly pointed out, we run the risk of the urban blight of the US cities and we run the risk that we're going to destroy our businesses, and in them, the small businesses which create the jobs.

I'll pose this as a question to you because, as I've said, I'm not allowed to engage these people across directly in conversation, but—

1800

**Mr Mills:** You poor, underdone—

**The Chair:** Order, please.

**Mr Turnbull:** The moronic comments that are being made are by the parliamentary assistant.

**The Chair:** Mr Turnbull, you have the floor if you want to continue with your question.

**Mr Turnbull:** How can we make people understand that we are just asking for a fair tax system which treats everybody equally and does not set neighbourhood against neighbourhood where they say: "Oh, your houses have gone up more in value. You should be paying more taxes"? That fundamentally is greed, that people say, "It's unfair that your house has gone up, so we want to tax it away from you." I guess that goes to the fundamentals of socialism, and that's the problem. I'll put it as a question to you: How can we convince these people?

**Mr Perruzza:** Forty-two years of that.

**The Chair:** Order, please. Please go ahead.

**Mrs Westcott:** I guess we just have to keep on talking, making our concerns known. We've come here in honesty and good faith to express our concerns as residents of Toronto and of Metro, as home owners, as really concerned boosters of all of Toronto and proud citizens of a great city. We care and we don't want to see a good thing destroyed. This is a last-ditch stand, that's why we're here. We fought it every step of the way and this is our last chance to avoid what we see as five years, anyway, of disruption. How are you going to come back after five years of businesses closing? Make no mistake about it, it will happen.

**Mr Turnbull:** In the US, to try and kickstart the inner-cities again, they're giving tax breaks to encourage businesses to go back. Why would we be going in the opposite direction?

**Mrs Westcott:** Exactly, and it's very hard to go back, very hard to regain what has been lost.

**The Chair:** I'm sorry that I'm going to have to end the discussion at this point. I want to thank you very much for coming here today and making your presentation.

JOHN ANDRACHUK

**The Chair:** Our last witness before the break will be Mr John Andrachuk. If Mr Andrachuk is here, would he be good enough to come forward. Welcome to the committee. You have 10 minutes. Please proceed.

**Mr John Andrachuk:** Well, you've got yourselves quite a problem, I can see. I'm sorry, I got here a little bit late. I didn't see any of the other intervenors.

I'm going to suggest to you that you do have some power and some responsibility here, and in fact you can do something. Otherwise, the question is begged, why are you here? Why are you reviewing this? Why, indeed, is there a senior level of government involved in reviewing this particular legislation dealing with the most important municipality in Canada?

Essentially, what I'd like to put in front of you are two ideas. The first that MVA, as I'm sure you've heard over and over again for the past several days, in this chamber and outside, is fundamentally flawed. It can never, ever work. I'll describe this in a moment. It doesn't matter what

compromises are made, it doesn't matter what fine-tuning is done, it is simply impossible for it to work to achieve any of its stated purposes, or indeed even the hidden agenda purposes.

The second idea I'd like to put in front of you is that you can in fact put in place a very simple system. Everything is sitting there, ready to go right now. You can do it January 1, in fact, so why don't you just do it? As a compromise on that, what I'd suggest to you is that the Legislature turn down this destructive legislation by doing something very simple: Let it go in for a year. Instead of making it 1997, say in 1994 a new plan that makes sense is in place.

I'd like to come back to the question of the MVA as a possible method of taxation, in other words, of distributing the cost of running Metro Toronto. I think, if I've understood it correctly, there are approximately 575 economic neighbourhoods in Toronto. The theory of valuation here is that those neighbourhoods will have internally consistent valuations and that those valuations, each of them to the other 575, will have a consistency and a set of relationships and that those will periodically be revisited so that the market value in fact is established.

Here's a very simple thing that illustrates why this system is impossible to administer. You cannot have 575 dynamically interacting things, to say nothing of the fact that there are hundreds of thousands of houses involved here, being in concert one with the other. What you're going to have is like a waterbed: Press down here, this one goes up, this one goes down.

I think every single one of you who lives in this area knows that over the past five or six years your own neighbourhoods have varied in value relative to other neighbourhoods that you can name. Well, that means your house has gone up or maybe your house has gone down. What's going to happen in 5 years or 10 years when there's a revaluation? This system can never, ever be stable. Because it can't be stable, it can never be made to work equitably.

I put this in front of you. This is not a question of, "Well, we can do this little fine-tuning over here and we'll do some more multiple regression analyses here and we'll load up a Cray computer and burn it out in the next three weeks."

Nothing can be done to make this thing work fairly and equitably in a stable, consistent manner. Vancouver's experience, I understand, illustrates that. They're now revaluing, I believe, every year. So you want a mess? You're going to have a mess. You've got a mess already.

Why don't you take charge of this thing and just say no? You can do "no" in two ways. You can just say no outright or you can say: "Well, fine, you've had your 5 or 10 years to study this thing, Metro and you've come up with what you've come up with. We're not intervening at this point because we don't really understand all the puts and takes here and all the complexities, but tell you what. We're a little bit dissatisfied with this because we've heard enough that indicates there's going to be disruption, and it's indeed a social development question, so what we're going to do is we're going to let you put it in place for a year. But during that year, we want to hear back from you on some principles for your new system to go in in 1994." That's one way of doing it. I don't suggest that. I think you should say no.

Here's how an assessment's done, I understand. For example, the value of the building is obtained using cost factors in the 1980 manual, whatever that is, based on the quality of your home on a scale of 1 to 10. Nobody ever visited my house. By the way, to get the record straight, my taxes are actually going down by about \$350, I'm told.

"To bring the value from 1980 to 1988, a factor of 2.4 is used. The square footage of your house is used, along with various other factors," unnamed, "that are listed attributes of your home with the department, and from the manual of 1980 construction figures calculated....1980 cost of construction figures multiplied by 2.4 to come to the 1988 figure. This figure is then depreciated based on the age of your home. This is now called the 1988 building value.

"The land residual values are processed using a multiple regression analysis program by the name of Statgraph," therefore it must be correct. "Values that are fed into the computer were the land residual value of the property, the frontage of the property, the depth of the property. This then produces a constant land," etc. This goes on for hundreds of thousands of homes.

#### 1810

Let me make a suggestion to you here, which is why I'm here. I think there should be some principles on which the assessments are made, which would then lead to the tax loads placed on individual citizens. We know that we're taking a total cost bill and just dividing it up among several hundred thousand residences and businesses and so on. I'm going to suggest six guiding principles here:

(1) Objectivity: It's something you can touch and feel and measure, that any one of us, my nine-year-old kid, can go and do it, and it's not this kind of crap you just heard here;

(2) That it's simple; that again, any one of us, a householder, can go and figure out what his assessment value is;

(3) That it's economic; it's easy to administer. Do you want to buy a lot of computers? Do you want to have a lot of staff? Do you want to have a lot of assessors going around? Do you want to pump out a lot of paper? That's what you're going to get by doing this, and heaven knows, we've got cost problems throughout the economy.

(4) That it's stable, that from one year to the next, from one decade to the next, that assessed value remains stable;

(5) That there's a correlation, as close as it can be made, between the cost of the services and the tax load and the tax assignment or allocation that results from it; and

(6) Comprehensiveness.

Having said all that, the obvious question which I'm sure is in many minds is: "Well, so what? If you're so smart, why don't you tell us how to do it."

I'd suggest to you that's what should have been done over the past 10 years or so, but never once, ever, have I seen anybody say that there are some guiding principles on which the basis of assessment, the theory of assessment, must be made. Rather, what is being done is to take what is and simply apply it, and applying it equitably and fairly and meeting principles like this is simply impossible.

So I'm going to make a suggestion to you. I'm sure you've heard this general thing before, but it's in essence a unit system. Base the property tax on a simple formula of lot and building area or volume. This is for houses. It's simple. It ain't perfect.



There isn't necessarily a perfect correlation between costs of the service and who pays for it and how they pay for it, but it's better than anything you've heard come in front of you so far from the MVA folks. With industrial properties, obviously you need a more complex formula to recognize cost loads generated by different types of industry, but here also I'd suggest simplicity should be a guiding factor. Keep things simple.

This particular system satisfies all the principles I listed above except for comprehensiveness. By comprehensiveness, I meant that there shouldn't be exemptions. Everybody should pay for it. If you're using a service, you should be paying for it. Talking about organizations like charitable organizations and churches etc, there should be some mechanism by which everybody pays for the services they consume. That's a political decision. It's a very simple one; it can be removed as a discreet decision item from the other five principles.

The benefits of a system such as that are that the public can easily understand it. Anybody can understand it. They can go and measure it themselves. They can get out tape measures and they can go and see what they've got. They know they're being measured fairly.

My next door neighbour, who has a brand-new 5,000-square-foot house, is comparatively, within our neighbourhood of approximately 209 homes, valued at about two thirds to one half of what he should be on an internally consistent basis in our little neighbourhood. He is one third to one half of what he should be, just on the basis of other homes similar to his built at the same time and the same size,

quality of construction and so on, within 300 feet, and it's simple, if you question the other valuations or his.

Fairness and equity here are self-evident and they're contained within the system itself. Nobody can argue with frontage, square footage, volume, factors like that that are utterly objective. You've obviously got definitional questions like corner lots and so on, but those are easy to resolve, I suggest.

In addition, the administration would be dramatically easier and significantly less costly. In fact it would have essentially no cost to it, other than mailing costs.

All the information required to rapidly implement this system is available today. You heard what I quoted here from the rules of the game, that the information to do this is actually sitting in computers today and within a matter of weeks every single home in the city could be valued. I'm talking about homes now, not businesses.

**The Chair:** Mr Andrachuk, if I could just ask you, there are just a couple of minutes left.

**Mr Andrachuk:** I'm finished. There's no additional cost to doing so; in fact the cost of implementation would be significantly less than that of the proposed market value assessment.

**The Chair:** Thank you very much for coming and putting down some proposals and ideas for the committee to consider.

The committee now stands adjourned until 7 o'clock, when we'll begin the evening session.

The committee recessed at 1815.

## EVENING SITTING

The committee resumed at 1924.

**The Chair:** I'd like to call the evening session to order. Just for the record, for those who have been waiting for us to start, we had to receive permission from the House to go ahead while votes are being taken in the House, but we have received that permission and we're ready to go.

MURRAY BLANKSTEIN

**The Chair:** I would call the first presenter, Mr Murray Blankstein, if he would be good enough to come forward. I was almost going to say "and sign in, please." Please be good enough to introduce yourself for Hansard and then proceed with your presentation.

**Mr Murray Blankstein:** My name is Murray Blankstein and I wish to thank you for allowing me this opportunity to make my views known to you. In this regard I speak for many of my colleagues, clients and friends. I have never before seen such depth of concern with any other tax change. This is so because there is a realization that not only could the changes have a devastating impact on businesses of all sizes and on people with fixed incomes, but that they seriously threaten the very fabric of Toronto.

There is a perception, much warranted, that the present system of property taxation is grossly unfair. It is well documented that market value is subject to innumerable distortions from property to property and from area to area. In my written brief I cite two examples, one where the assessor set a value 243% higher than actual cost and the other 58% higher than appraised value. How can you justify a tax system where there can be such distortions? In actual practice, the present system has no objective base on which to levy the property tax, unlike the sales tax or income tax systems.

Even if the assessor is aware of all the distortions and factors which would influence the value of one property as compared to another, it is an almost impossible task to factor them all in. The system does not recognize the ability to pay of the persons responsible for paying the tax, nor does it recognize the benefits of municipal services received.

Why should the pensioner living in the vicinity of the old industrial district around King and Dufferin suddenly be faced with substantial property tax increases because of market speculation concerning the possible redevelopment of the Massey-Ferguson lands, which may take decades to complete and which won't put another dollar in the pensioner's pocket unless he sells his house?

Why should a small restaurant, retailer or business in central Toronto be faced with a substantial tax increase because the land under its building, for assessment purposes, has the same value as land under a 30-storey office tower? Why should the land portion of the value determination for that small restaurant, retailer or business be borne by a single occupant or small business when for the office tower, the land portion of the value is spread over all the occupants and businesses in the office tower?

Why should the industry located on Eastern Avenue pay taxes at a rate which is three or more times higher than it

would have to pay if it were located just beyond the borders of Metro?

Should tax policy be such that it drives people on fixed incomes living in the older, more densely populated areas out of their houses; that it drives business, especially small business, away from the central areas of the city; and that it forces industry, and with it industrial-type jobs, out of Metro? Are these policies we want to support?

There is something wrong when the Assessment Act requires value determination, but at the same time recognizes that such value determination is subject to distortion and then attempts to resolve the problem by providing procedures for equalizing assessments. The result is that factors are applied to different classes of property: 2.2% for residential other than apartments, 8% for apartments, 4.3% for commercial and 6% for industrial properties.

These tax factors appear to be arbitrary. They are certainly difficult to understand, except that they provide a subsidy in favour of home owners and discriminate against apartment tenants and industry. If equity and fairness are to be the standard, then the same standard of market value should be applied across all classes of property. There is no other tax legislation which is so fraught with distortion and open to such subjective and arbitrary application by the taxing authority.

Metro council, in complying with provincial legislation, has the limited choice of either making no change to the assessment base or going to a 1988 market value. As a compromise in implementing the latter, it put in place a system of arbitrary caps and clawbacks to phase in the burden and benefits over time. These caps and clawbacks don't relate to the inherent distortions and discriminations in the system. They simply distort it further, making a mockery of the property tax system and any attempt to bring equity and fairness to it.

We have serious problems in our economy. Our business and industrial base is going through a massive restructuring. We are losing business and industrial jobs at an alarming rate. The government has said that it wishes to encourage industry, and it should. However, the use of market value for property taxation is counterproductive in that it distorts costs and reduces competitiveness. Occupancy costs, which include property and business taxes, must be included in the cost of production. Property taxes on industrial properties average as high as \$2.35 per square foot in the city of Toronto, \$1.90 per square foot in Scarborough, \$1.55 in North York, \$1.15 in Richmond Hill, \$1.05 in Mississauga, to as low as 85 cents per square foot in certain areas of the Toronto region.

The cost of a widget produced in a factory in Toronto, Scarborough or Mississauga must sell at a competitive price, whether in Halifax, Edmonton, Dallas or Rome. Unless we adopt tax policies which assist and encourage our industries to be competitive, and market value assessment surely does the opposite, we will continue to drive industry away from this region.

I hope the last thing we in this province would want to do with our planning policies is to destroy the beauty and diversity of Toronto. The central area of Toronto has a character



which is special, which has made Toronto the magnet it has been for business, industry and culture. The suburbs and outlying areas, on the other hand, are indistinguishable from any American city.

#### 1930

Property taxation has a major impact on land use and planning. If a property owner can't afford to maintain the property, and that includes paying the property taxes, the property will not be maintained and will eventually be abandoned. That goes for residential as well as commercial and industrial property.

You need only look to Detroit and Buffalo to see what can happen. Regrettably, we are starting to see it now in Toronto with increasing numbers of vacant commercial and industrial properties. Undoubtedly, the recession has been a significant cause. But property taxes are high, and if they are increased, and with the commercial concentration tax, the risk is that more and more properties will be vacated and ultimately abandoned. There will be a compounding effect which may be very difficult and costly to reverse.

It has been indicated that the changes approved by Metro would raise the property tax payable by Ontario Hydro by as much as \$50 million, increasing electricity bills by an average of 50 cents per month and much more for industry. This is because of the increase in market value of Hydro facilities and transmission corridors in the city. There would be a similar impact on the rail corridors and other utility and quasi-public facilities. It is the height of absurdity that a market value property tax system should apply to those facilities, thereby increasing costs to everyone. Those facilities and the land under them have no market value while in use providing public services.

The market value system is perverse. The central area, which is more compact, makes more efficient use of land and services such as water, sewage, roads and transit. Because of its higher density and larger tax base, the central area also contributes towards the cost of providing services to the suburban areas, which are more spread out. In addition, those residents and businesses in the central area are paying an extra subsidy towards the suburban areas by reason of the fact that the central area, because it is the central area, generally has a higher market value than the suburban area.

Much has been made of the massive transfer of funds from the city of Toronto to the Metropolitan Toronto School Board. About one third of the funds, or \$316 million, is not used by schools in Toronto. The city of Toronto comprises only 16% of the land area of Metro, has only 27% of the population and presently provides 42% of the tax revenues received by Metro Toronto. Therefore, it is obvious that it is the taxpayers in the central area who are subsidizing the costs for services provided to the suburbs.

This kind of analysis, which pits the residents of the city of Toronto against the residents of other Metro municipalities, is destructive and not one which encourages a healthy and cohesive city. However, so long as we have a property tax system such as the present one, then such analysis and comparisons will of necessity be made.

Statistics Canada reported last month that over the past 11 years, while the consumer price index increased by 70%, urban taxes rose by 113%. Eliminating the inflation

factor, the real increase was a staggering 26%. In the city of Toronto property taxes increased 8.34% this year, while the inflation rate was just over 1%. In addition to increases in the mill rate, which we have been told to expect, the taxpayers of Toronto are facing further substantial increases, even though capped, resulting from the decision to change the assessment base.

Education costs account for approximately 55% of total property tax revenue in Metro. Add to that welfare costs, of which the Metro Toronto property taxpayer pays 20%, and it is clear that provincially mandated programs and policies are undoubtedly the single largest factor in the property tax issue.

In my opinion, the property tax should not be a source of funding for education and welfare. Those are the responsibility of every person in this province and the cost should be paid for out of the general revenues of the province. If that improper and unfair burden was removed from municipal responsibility, then there would be room for Metro to assume the full burden of public transit, which is more appropriately a local responsibility. Property taxes would be lower and they would not have such a devastating impact.

The provincial government must take full responsibility in this property tax issue, as it is provincial legislation which determines how property tax is to be assessed and levied and it is the province which has the power to shift what are arguably provincial responsibilities for education and welfare away from the municipalities in the property tax base and fund them out of the general revenues of the province.

The present system of property taxation, whether on the old value or on the updated 1988 value, is unfair and flawed. In my opinion, a system of taxation such as unit value assessment, which is based on consumption of or benefits from municipal services, would be fairer and easier to administer.

Not to take anything away from this committee, the Fair Tax Commission should be allowed to have public hearings, study and report on the property tax system, giving careful consideration to its effect on all classes of taxpayers, on business, industry and jobs and its impact on the urban form. As well, it should consider the burden of funding that falls on the property taxpayer, what should properly be paid out of the property tax system and what should properly be paid out of general revenues of the province.

Property taxes must be looked at with respect to the effect they have on our industrial policies, land use and urban planning, and whether the effect may be counterproductive to such policies and planning. Most important, the impact of the property tax system, including the commercial concentration tax on the continued viability and health of the central Toronto area, has to be carefully considered. When you have experts such as Jane Jacobs, a world authority on cities, coming out strongly against market value assessment for its devastating impact on Toronto, then the government has to pay attention, draw back and give this matter careful consideration. It is my sincere hope that it will do so. Thank you.

**The Chair:** Mr Blankstein, I want to thank you for your presentation. You've clearly put a great deal of thought into that. I'm just sorry that because of our time constraints we aren't able to get into question and answer at this time. But this, of course, will form part of the record of the hearings,

and again I want to thank you for the time you've clearly put into this.

**Mr Blankstein:** Thank you for hearing me.

#### SWANSEA AREA RATEPAYERS' ASSOCIATION

**The Chair:** I now call upon the representatives from the Swansea Area Ratepayers' Association. I was going to say "if they would be good enough to come forward," but if you, sir, would be good enough to come forward and please identify yourself for the purposes of Hansard. We have a copy of your brief and I believe all members have it.

**Mr Bill Roberts:** Good evening. The name is Bill Roberts. I'm a director with the Swansea Area Ratepayers' Association.

A brief background: The association predated the incorporation of the village of Swansea, which was in 1926, and has continued to survive past the amalgamation—

**The Chair:** I take it that's not a personal statement.

**Mr Roberts:** No. That gives us sort of a unique perspective, because we were involved in one of the few municipalities that did not go bankrupt during the 1930s and when we were amalgamated by Toronto we had a large reserve fund. Our taxes went up in the first 10 years about 1000%, the services went down about the same correlation and we've got a big deficit because we're part of Toronto.

In essence, though, our group is unincorporated but includes tenants, residents, home owners and businesses, and that's the perspective I'm bringing to the situation now.

We've been opposing market value since it was first proposed back in 1976. I'll get on to some of the points back then that we thought were wrong and what has proven to be wrong with the whole proposal.

Part of the problem with market value is the limited number of variables that you use for comparison. There are only four or five variables built in. This produces a real skewing because how do you compare properties if you're only looking at four or five variables? The problem at that point becomes: You say, "Well, these four variables match those four variables; therefore, these two properties are the same," when in fact they are not.

That's one of the fundamental problems with market value; it is not the market value system they envisaged in 1976. They were assuming computerization, multiple variables being built in so you would get a true comparison between properties. The assumption was even, if possible, to compare unique properties from one region to another. If you had enough variables built in, in theory you could do it. That has not occurred.

What has happened is the assessors have maintained the old, archaic system and skewed the system completely out of whack. It's so broad brush that it's a poor indicator. Properties get grouped together that do not correlate to each other, and what happens is that speculation becomes a significant factor in an area. What happens is, because of the few variables, somebody comes in and starts redeveloping a house or artificially starts increasing the prices on the street. Even though nothing else has occurred to any of the other houses on the street, the assumption is they've all increased in value.

That would be all right if you assumed the capitalist system was the way everybody worked with houses—that houses were commodities, not homes. But the reality for most people is that they buy the place to live in. When there's a peak, they're not going to sell off like they would sell stock. Market value inherently assumes you sell it when there's a profit. For this government to support that is rather unique. You're going to force people to sell their homes because they can't afford to pay the taxes and the only way they can keep any shelter is to sell their home and move somewhere else where they may be able to afford to live.

#### 1940

You're really taxing what are called paper profits. If the person doesn't sell, he has no profit. When they sell six years later, as in this market now, they may have lost money. Are you going to give them their money back? Is there a capital loss? No. There's no benefit for their paper profit. That's one of the fundamental problems with market value.

In stable residential areas like Swansea or even the Bloor-Junction area—and the reason I talk about Bloor-Junction is that it's a working-class neighbourhood and used to be part of the same ward that Swansea's in and is basically working class. Swansea has a large number of seniors, so in some ways the economic reality's the same for both. As speculation occurred in both areas, prices went up for the houses. The 1988 figures are going to have a significant impact on those people being able to live in those neighbourhoods and the stability of those neighbourhoods. Commercial properties have the same problem because speculation was quite heavy in parts of downtown Toronto.

In British Columbia, under a regime that was the same as the present regime here in the sense of being NDP, they developed a market value system that had multiple variables in it, and the impact of speculation was much less because of the multiple variables.

The effects of speculation basically—and I've got to say this because I'm a real estate lawyer—were not uniform. There were places in Etobicoke where the rise of speculation was very small. At the same time, in Toronto there were other areas where the increments were 30%, 40%, 50% every year on the same house. The reality is, and I've seen this right now, that there are houses in parts of Etobicoke, like the Kingsway, where they're going to pay fewer taxes now in the sense that their taxes are going down compared to a bungalow built in the 1950s, even though the house in Etobicoke was built in the 1940s.

Assuming the inequities were when a house was built and trying to adjust that, one would assume some correlation between the two happening. It's not because of the impacts of speculation during the mid-1980s. Metro Toronto is fixing using the 1988 values. The problem with that is the fact that speculation was not uniform, so it will result in an unfair fixing of where speculators had moved in.

Part of the assumption of market value is the assessed rate given to a property. The taxes are drawn from that. If the assessed value is not right, if it's inaccurate, if it's inequitable, the taxes based on that will have the same reflection. That's part of the problem. It will increase the instability in those neighbourhoods. What you've got to understand too is that in 1976, when the Commission on the Reform of Property



Taxation in Ontario was created, it did not realize the rate of speculation or property tax increases that would occur. When you read their material, there's no indication of their even expecting that.

When you compare the shifts in 1986 and 1988, areas of Toronto that were going to have their taxes go down in 1986 had their taxes go up in 1988 because the speculation had moved into those areas. If you keep it at the 1988 values, you're going to penalize those areas for what were really unreal values.

You would remember the history. The reason why I'm doing this is simply that it really begins back in 1952 with the Privy Council, which said that market value is the basis when calculating taxes, what a willing seller and a willing buyer will come into agreement on. That's supposed to be the test. The reality though is that the assessors say: "We don't care what you paid for the property in 1988; we don't care what you sold the property for in 1988. Our book says what the value of the property is." Saying that, they disagreed with the fundamental basis of the 1976 report, so this is false market value to begin with.

The other aspect about it was—I cite another case and we'll go through it—that the Ontario Court of Appeal said that the whole object of the thing was to have an equitable system where you could test it. When you get into the equities, the reform commission in 1976 accepted market value because it was a basis for judging fairly and equally. Somebody could tell what a property sold here for, what a property sold there for, whether he was paying a fair tax.

That's not going to happen now. With all the capping and everything else that's occurring, it will be very hard for people to tell what is fair. The equities, the tests, the objectivity that was presumed back in the 1976 study are gone, and what Metro has done is deviate even more from that point.

I'm curious about how you're going to deal with houses built in 1992, 1993 and 1994. Assuming you keep the old system, I presume what'll happen is, to keep everything equitable, whatever price they pay for the property in 1992 will be raised up to 1988 values and the appropriate adjustments will be done. If there's no capping or freezing, they'll pay 1988 values on their 1992 property. I just want to see what the taxpayers say when you explain to them how the property is being assessed at 20%, 30% or 40% above what they actually paid for the property in 1992. If you think the screams are bad now, just wait till then.

I'm curious what's going to happen in five years because of the inequities in the speculation. I'm quite sure Etobicoke is not going to be at all thrilled, or Scarborough or North York, when things begin to line up with the real values and their taxes are suddenly going to go up. I bet you'll see the same vote to not change the taxes but to keep the inequities there in place. You're going to find a system that is truly equitable, that truly reflects real values of property, not this artificial system.

The argument that the people can appeal if their taxes have gone up is just not there. There will probably be so many appeals in Toronto that there'll be a backlog of anywhere from two to three years. The reality is that you have to pay your taxes, even though you filed an appeal. That may well mean the home owners will be either forced out of their

homes or businesses will become bankrupt while they're waiting for their appeal, so there won't be any justice there either for those businesses that feel they've been swiped unfairly by too high a valuation on their property.

Along that line, you should remember that in 1953, when Metropolitan Toronto was created, it was designed to transfer moneys from Toronto, Forest Hill, Swansea, Weston, York, Mimico, Long Branch, East York and New Toronto, which were established municipalities, to pay for the infrastructure of Scarborough, Etobicoke and North York. The benefits of Metro have not come back to Toronto or some of these other municipalities yet. In the Bloor-Junction area there are roughly 400 to 600 more students than there are class spaces, but Metro's school board will not finance a school in that neighbourhood, and more development is coming in, and right next door to the Bloor-Junction area is Lansdowne and Bloor, which is one of the major crack cocaine areas, second only to Jane-Finch.

**Mr Mammoliti:** Point of order, Mr Chair: I don't agree with that comment. Jane and Finch is no longer—

**Mr Roberts:** It is no longer? Okay, then this area probably is number one.

**Mr Frankford:** I think that's very dangerous.

**Mr Mammoliti:** Yes, I'd be careful.

**The Chair:** I think—

Interjections.

**The Chair:** Order, please.

**Mr Roberts:** With all due respect—

**The Chair:** The witness has the floor.

**Mr Roberts:** All I can tell you is that that's information heard at the Ontario Municipal Board from police officers. If it's changed, fine, but what I'm saying is, Bloor-Lansdowne has a serious crack cocaine problem. There is no funding for community centres or schools there from Metro. So where's the infrastructure coming back to Toronto? But their taxes are going to go up.

There's going to be a significant impact on Bloor West Village. We've spoken to the businesses there. They will not be able to carry on. Bloor West Village is unique, because it was the first strip business area in North America to redevelop itself. It would be a shame if this tax system destroys it.

Essentially, the Swansea Area Ratepayers' Association takes the position that we do not support the present proposal. It's flawed because the assessment basis on which it's based is flawed. We support finding a system that will truly be equitable and will reflect true values or some true system of dealing with needs and bases. We're waiting to see the results of the study we've been waiting for for some time now, which reflects some of the realities that came out in the mid-1980s, that shows that market value is probably flawed for areas like Metropolitan Toronto.

We wonder about the rush, given the impacts this will have in the city of Toronto and other areas, and we suggest that you really need to do impact studies before you decide to go forward with this. Once it's come in, once you've done what's happened, it will be too late to say, "Oh, sorry, I guess your business has gone bankrupt, but we all make mistakes."

I remember from religious studies in university the old Taoist philosophy that you have two choices, one which will reflect significant change and one which will not. If the delay, for a short period of time, will allow you to analyse what the impacts will be, delay makes more sense. What I'm suggesting to you is, there are significant problems with the system, significant problems with what Metro has done with it. If you put this in, you will be held accountable for what happens, not Metro.

**The Chair:** Thank you very much. We have time for a couple of quick questions.

1950

**Mr Turnbull:** Mr Roberts, thank you for an excellent presentation. You've touched on a few very interesting points. The question of taxing paper profits: Would you say it was true that the speculative boom that occurred in 1988 could not have been sustained had everybody wanted to sell their house at that price, that in fact prices would have collapsed if people tried to sell them?

**Mr Roberts:** In fact they did collapse, because there were more speculators in the market than there were people willing to buy. The actual problem began in 1985 and kept increasing every year. People were getting a 30% profit on their property in six months, which shouldn't happen. Normally, with real estate you expect a rate of return equivalent to inflation unless you luck out by getting a piece of property somewhere and then something changes in the immediate vicinity. That wasn't happening. People were making paper profits.

**Mr Turnbull:** And you alluded to the fact that it was uneven across the city, that some areas were increasing at a greater rate of knots. Would you comment that many of these places that increased at a greater rate of knots have tumbled further relative to the others?

**Mr Roberts:** Yes, that's true. In fact, I know situations where people are buying properties right now for \$50,000 less than the mortgage on the property.

**Mr Turnbull:** So in fact you're locking in an incredibly inaccurate picture of values. Even if you like market value, one would have to conclude that 1988 would give you a highly inaccurate picture of values.

**Mr Roberts:** In fact, I think the reason they went back to 1940 was partly that they were having the same sort of pressures in 1953, 1954, 1955 within Metropolitan Toronto, so they went back to what they considered was a stable period, which was 1940.

**Mr Turnbull:** And you alluded to the imperfect assessment that occurred. In fact, our last witness, who we unfortunately didn't have time to question, said that Pollution Probe bought offices in Toronto for \$670,000 in 1988 and is now assessed at \$2.3 million. How can this happen, that anybody can be so stupid as to assess a building at multiples of the price it was actually bought for in the year they've done the assessment?

**Mr Roberts:** I cite one street in Parkdale, Beaconsfield, where the same problem exists. The variations are about \$100,000 between one end of the street and the other.

**Mr Turnbull:** The people who are howling and saying that the present system is inequitable are absolutely correct,

but unfortunately they feel that they should get reductions to their constituents at any cost, whether it means equity or not. I'm hard pressed to understand the logic of that. The problem is that we have to convince them. You don't have to convince me. How do we do this?

**Mr Roberts:** That's partly what we need the study for.

**The Chair:** As we think out how to do that, Mr Mammoliti.

**Mr Mammoliti:** I'm sorry for cutting you off earlier, sir. I have a hard time dealing with the comparison, the comparison being taxes, with the drug movement and Jane and Finch and all that stuff. The drugs and the crime related to drugs in the Jane and Finch community have dropped 42% over the last year and a half, sir, and we have been paying more taxes than most people in Metro over the last 50 years.

**Mr Roberts:** With all due respect, I'll lay odds Jane-Finch wasn't developed 50 years ago; maybe 30, maybe 20.

**Mr Mammoliti:** The question I have for you, though, is that in terms of equity, and Mr Turnbull was talking about equity, are you saying the present system is better than this Metro proposal? Are you telling the people in the suburbs, the ones who are going to experience a drastic decrease in their property taxes, that the current system is better than this proposal?

**Mr Roberts:** No, I'm not saying that. With all due respect, what Metro is doing is simply taking a flawed system and making it more flawed. Just because somebody gets some money back and says: "Fine. I'm okay. We don't care what happens to the person down the street"—that is the essential problem. Swansea area ratepayers have been arguing for 20 years that there are problems with the system, and we want a better system. The problem is this clinging to market value, which is not working. You've got to get a system that is fair, is equitable and properly reflects what's going on.

**Mr Mammoliti:** We agree on that point. We have to do some work in terms of adjusting the property tax system. But that's a system that's right across the board in Ontario; that's a system we've got to address here in the Legislature, no question about it. But here we have a Metro proposal that's a separate proposal, and in my opinion this is better than the current system. I personally don't want to keep paying more than the person in Swansea. That's my opinion and that's the opinion of a lot of people in the suburbs. They've been paying a lot more taxes than the average Metro person; 57% in Metro are going to experience a decrease with this plan. I'm going to have to disagree with you on that. I think the current system is worse than the proposal. I'm not saying the proposal in perfect, but it's a Metro proposal. They've asked us to implement it. Do you know the precedent that would—

**The Chair:** Is there a question there?

**Mr Mammoliti:** In terms of the precedent, do you realize that if the province puts its hands in this there's a precedent set here? The province has never done this with municipalities in the past. Do you realize that? That's my question.

**Mr Roberts:** I recognize that, but I'd also point out to you that part of the problems recognized by the Conservative



government under Darcy McKeough when it allowed municipalities to make the decision, municipality to municipality, was the realization that in the case of Metropolitan Toronto and some other urban municipalities, market value could have a significant impact, and the studies had to be done in those local municipalities. The reality is that even in 1976-77, problems were recognized back then, and those problems are still there.

I have to point out to you, with all due respect, that a lot of the infrastructure up in the Jane-Finch area was paid for by taxpayers in Swansea, Forest Hill, Toronto, East York, York and Weston, because there wasn't the money in North York to pay for it. If you're willing to pay your debt back, fine.

**The Chair:** I'm sorry, but we're going to have to end this part of the presentation. I want to thank you very much for coming and representing the Swansea Area Ratepayers' Association.

**Mr Turnbull:** Mr Chair, could we in future have the time for questions divided equally between all parties? I think it was highly unfair to my colleague.

**The Chair:** We can try. The Chair is in the hands of the committee, but there are times when we simply don't have that time and I'm going to have to exercise some judgement. We have a number of groups to hear tonight and we are running behind. I will try to accommodate as many members as I can.

WENDY E. DAVIES

**The Chair:** Our next witness is Mrs Wendy Davies. Welcome to the committee. We have a copy of your presentation. Please go ahead.

**Mrs Wendy E. Davies:** Ladies and gentlemen, I am Wendy Davies and I'm here to discuss what the implementation of market value assessment has done to Mississauga with respect to the proposal of implementing MVA in Metro.

Since January 1986, when MVA struck Mississauga like a thunderbolt, I, as president of the Mississauga Association for Property Tax Reform, have spoken publicly on the matter at least 20 times. It appals me that in our so-called democracy no one in government appears to take seriously the most adverse effect it has had on those municipalities that were forced to accept it. However, and whatever the outcome, in Toronto at least there has been an opportunity to learn about this new set of rules before the fact. Mississauga learned them the hard way, after the fact.

The Assessment Act states that land, including a house etc, should be assessed at market value. Market value is defined as the amount that the land might be expected to realize if sold on the open market by a willing seller to a willing buyer. In theory, market value assessment sounds reasonable: equal taxes for houses of equal value. But this does not happen in reality. Municipal politicians are told that a greater percentage of their municipality will have a decrease in assessment. From our experiences, those decreases are token, compared to the shock increases.

The provincial assessment department will not divulge any information about the impact to be experienced in the various areas of the municipality. The area in which I live in Mississauga began in 1940 and thus is heterogeneous. The

highest increase was 300%, and it was quite common to be up 30% to 50%. Please understand that this happened to us overnight.

## 2000

There are new subdivisions of homes in north Mississauga that had been fields in 1980, carved into civilization in 1984 and then in 1986 were assessed at hypothetical, astronomical values for the base year of 1980, bearing no resemblance to what they had paid in 1984.

Metro's base year would be, I believe, 1988. Real estate values in 1988 were at their highest. How can anyone justify using values from that year?

With real estate escalation of leaps and bounds in the 1980s, and now the recession causing loss of jobs and loss of confidence to invest in anything, let alone real estate, using market value to estimate property taxes makes no sense at all. Toronto home owners have assessments that go back many years. I can assure you, if the Mississauga experience is repeated, MVA is not about to sort out Toronto's assessment problems.

MVA is carried out at an enormous expense to the taxpayer home owner. It is done in a hurry and with human failings. During one hearing I attended, the chairman made the comment that if you had nine assessors assess your home, you would probably have nine different assessments. There is no consistency. If you are at home when the assessor calls and no appointments are made, you can only hope that the assessor is in a reasonable frame of mind. I can recall being told some of the comments: "What are you worried about? You can afford it" or "You'd be better off selling this place and moving to the country."

When Mississauga was forced to accept market value assessment, the new assessments were mailed accompanied by a formula for the home owner to calculate the bottom line. We took the mill rate times the assessment to give us our new tax rate, approximately. They also included information on open houses, which were conducted for the home owners by the provincial assessors. I attended the one in our vicinity and spoke of Clarkson, where I live. The assessor asked, "Where is Clarkson?" I replied, "You're in it." That was the beginning of a very long, discouraging road and, at the time, the birth of the Mississauga Association for Property Tax Reform.

The appeal process experience, the hearings where we appealed our assessment, not our taxes: When the home owner decides to challenge his assessment through the hearing process, he or she is victimized from day one. We were told that the Assessment Review Board would be an informal, relaxed court. Having observed many, and appealed three times myself, it is anything but. The onus is on you, the property owner, to prove the assessors wrong. The hearings are so confrontational and intimidating that I have seen men shake with rage and women weep. Home owners feel, through no design of their own, that they have been put through a wringer. Mayor Hazel McCallion told me that if she were to appeal her assessment, she wouldn't know where to begin. Ladies and gentlemen, if our mayor of Mississauga would have difficulty, anyone would. By the way, as with so many residents in Mississauga, the mayor's increased assessment of 116% forced her to move.

The system pits neighbour against neighbour. Only the assessors have access to all the required information, the formulae used and how they are applied. All research and the hearings are carried out in the daytime; very inconvenient for most. You are informed of the day of your hearing with an approximate time. Many abandon their appeals, for they see the hopelessness of the process. Just when you have spent weeks gathering whatever material you can—and I've known many to use their holidays—you might receive a phone call at 10 pm the night before offering you a deal; that is, a small reduction if you will not challenge your assessment. However, you must still appear to confirm.

Market value assessment is, you would expect, based on market prices of other properties similar to your own. You spend weeks gathering your statistics, taking pictures and making maps. Prior to your hearing date, your assessor might phone to request what comparisons you are using. You dutifully tell him, because you were told that the chairman expects you to. You arrive for the hearing, and the rules of the game have changed. The assessor uses other comparisons which you have not considered because you cannot see the similarities, and then he introduces formulae for which you have no understanding. As an example of this, one of the comparisons used for our property was literally a marble castle on the lake, bearing no resemblance whatsoever to our house in size, lot, location or quality of materials.

The assessor talks of the whole package, mass appraisal, and perhaps that a lot is a lot, if there ever was such an intelligent phrase. The land residual of the whole package may be calculated like this: Take the land portion value of, say, three properties—\$55,000, \$52,000 and \$85,000—and average them. Now why would anyone in their right mind average these three residuals?

If the property owner questions the formula used, the answer will no doubt be, "A lot is a lot." During one of my hearings I asked about the use of the assessor's manual, the one by which the assessor is trained. The chairman turned to the assessor and asked, "Do you ever use your manual?" Not at all comforting, because all that is left is personal judgement and the mood of the day.

The chairman might have asked, "Have you examined your neighbour's house?" Intimidating? You bet. All the while the owner is on the spot trying to defend himself in a situation he did not create, and his tax dollar is paying for the humiliation. If you hire a consultant to represent you, the assessor will have a QC to carry out the interrogation. Even with professional help you must still participate. Minutes of the court are not recorded. The chairman writes his own notes.

During the hearings of a neighbour and myself, we requested written decisions. When they arrived by mail, the only accuracies stated were our addresses. The written analysis had nothing whatever to do with our proceedings.

If you lose at the ARB, and very few win a reduction in their assessment, and you decide to challenge the province's decision at the Ontario Municipal Board, you must first submit a fee. At the OMB you are confronted by assessors accompanied by lawyers. Undoubtedly, you require professional assistance at great expense.

Two Mississauga residents felt so wronged by their ARB decision that they decided to go on to the OMB. However,

with business commitments and so little time to prepare, they asked for a postponement by letter, couriered 10 days before the hearing, abiding by the rules. They were told by phone to be there anyway, at which time it would be decided whether to accept the postponement. One man went for both. The chairman gave him the dressing-down of his life. In fact, he felt treated as a four-year-old. To add insult to injury, the chairman charged each of them \$200 for wasting his time and that of the lawyer.

The greater portion of our tax bill is for education—62% in Mississauga. Why is the onus on the property owner to pay the educational tax bill? With MVA, the burden is beyond belief. Reassessment is expected to be carried out every four years, thus no property owner can plan his financial obligation for property taxes. It makes no sense that property taxes are linked to market value.

In Mississauga, many home owners who have supported their community for decades have felt totally helpless. Governments do not practise restraint. It appears it is their right to make money on the calculated increased value of a property on which the home owner has made nothing.

Why improve or upgrade a home? MVA can destroy pride in home and community. Since the implementation of MVA in Mississauga in 1986, my property tax increased \$1,000 immediately. By 1992, it compounded to double the taxes we paid in 1985.

MVA in Mississauga has already driven thousands out of their homes. With the economic climate as it is, we cannot sell our homes for anything like what they have been assessed. As for retirees and those thousands who have lost their jobs, they, we, are appalled at what the government has done to us. Taking in boarders can become the order of the day just to meet the tax bill.

In a democratic society we should expect our elected representatives to act on our behalf, not against us. We in Ontario are already burdened with taxes at seven levels.

Market value assessment in Mississauga has been a disaster. Misery is not looking for company. Please, don't allow another unforgiving mistake to be made, this time in Metro.

**The Chair:** Thank you very much. I realize there was some confusion at the outset regarding whether you were here representing the Mississauga group, and so for that reason I will allow a question from each caucus, beginning with Mr Owens.

**2010**

**Mr Owens:** This is pretty outrageous behaviour you've had to experience in the process of the assessment on your house. What happened? Did you complain about this?

**Mrs Davies:** The comments that I refer to are comments of others who have—it has been discussed as well as in the hearings. Are you referring to, "Why don't you sell your house and move to the country?"

**Mr Owens:** No, no, in terms of the story you reported, is this a situation that's happened to yourself personally?

**Mrs Davies:** At the OMB level?

**Mr Owens:** Yes.

**Mrs Davies:** No. This has happened to two people who live within our area, both in Clarkson, one north of the



Lakeshore and one south, one who lives right around the corner from us. The name is Schwartz.

**Mr Owens:** As I say, this is outrageous behaviour.

**Mrs Davies:** The steam was coming from his head when he walked out he was so upset. He went straight to a telephone and called me.

**Mr Owens:** Did your person report it to the local MPP?

**Mrs Davies:** It's all been reported. This goes back a way, and by the way, having been charged \$200 each, it was later withdrawn. But he was charged and the man he represented at the time, having couriered 10 days earlier the notification that they would take a little more time. That happened at the OMB level.

**Mr Owens:** I appreciate your comments. Just one quick final question: In terms of your experience of others going through the assessment appeal process, what has been the average cost they've been asked to bear?

**Mrs Davies:** Are you talking about taking on a consultant?

**Mr Owens:** The whole process from start to finish.

**Mrs Davies:** First of all, we go back to 1986, because that's when we had the implementation, and I have to tell you that because we were told it was going to be a relaxed, informal court, the majority of people went without any assistance. Others, you could spend thousands.

**Mr Owens:** Right.

**Mrs Davies:** But I do know what it's like to come up against a lawyer and be totally intimidated by him.

**Mr Owens:** I'm just trying to get an idea of what the cost of justice is.

**Mrs Davies:** Do you know how much lawyers charge per hour?

**Mr Owens:** It depends which firm they come from.

**Mrs Davies:** Okay, but none that I knew, certainly at the ARB level, took a lawyer with them; that was out of the question, and since the percentages of receiving a reduction are next to nil, nobody would be willing to spend thousands of dollars.

What we learned about going on to the OMB level is that you are definitely faced by a lawyer, so it's ridiculous to be there without one. However, a lawyer was also used at the ARB level. At the beginning there were just the assessors there, but soon there was a lawyer there, and if there was any talk of there being a consultant with you—and one of them spoke here last night, Mr Keith Noble—then they immediately took a lawyer with them, had a lawyer with the assessor.

**Mr Grandmaitre:** I'd like to quote a paragraph of your brief on the very first page:

"However, and whatever the outcome in Toronto, at least there has been an opportunity to learn about this new set of rules before the fact. Mississauga learned them the hard way, after the fact."

I want to warn you that we are not providing you with all the facts. You will learn after the facts.

**Mrs Davies:** Yes, I'm sure I will.

**Mr Grandmaitre:** There is no impact study done. There was none at Metro.

**Mrs Davies:** Excuse me. What I'm referring to there is that the only thing we had was a paragraph in the local newspaper to say it was going to happen. It was written that there would probably be an average of a \$180 increase and an average of about a \$50 decrease. I haven't heard of one increase at \$180. There was, I think, a \$100 decrease. Both of those figures were pies in the sky. That's all the information we had. We heard on Monday we were going to have it; on Wednesday we received our bills. That's what I mean by that comment.

**Mr Grandmaitre:** I see.

**Mrs Davies:** I know you will never learn all there is, all the information, ever, because that's the way this process works, but at least you've had something going on. That's all I'm saying about that.

**Mr Grandmaitre:** If I can go on, Mr Chair, I think the two previous witnesses put it very clearly. The provincial government must take full responsibility in this property tax issue. We were told some months ago that the minister was to introduce enabling legislation to provide Metro with the same power as any other regional government in this province, and we believed him.

This committee is now faced with two problems, the enabling legislation plus a plan, and the minister admits that he doesn't like some of the sections in the plan, but he may or will allow Metro to make changes. Do you agree with me that this total package, this legislation, is the total responsibility of the provincial government?

**Mrs Davies:** The provincial government looks at things from that level and the way I look at it is that I think it's been passing the buck in that Metro has passed it on to—

**Mr Grandmaitre:** The Assessment Act is the responsibility of the provincial government.

**Mrs Davies:** That's the way it has been. Prior to that it was the local government.

**Mr Grandmaitre:** In 1970.

**Mrs Davies:** But our experience—I'm going by our experience—was that they didn't really know what they were dealing with at all. They'd walk into an area and they didn't have any idea whether it was a good area or it wasn't an area. I mentioned to you that in one of the hearings, and I was there for that statement, a chairman said you could have nine assessors assess your home and you will probably get nine assessments.

**Mr Grandmaitre:** Just like lawyers.

**The Chair:** Mr Turnbull.

**Hon David S. Cooke (Minister of Municipal Affairs):** The Minister of Municipal Affairs in 1986—

**The Chair:** Order, please.

**Mr Turnbull:** Mrs Davies, I remember hearing your story several years ago and I was outraged at the time by the story and I'm equally outraged today.

The problem that I see for a lot of people who want to claim that they're incorrectly assessed is when you use comparatives of neighbouring houses that very, very often—and we've heard this in evidence so far today—the assessors will beetle in when they find out the comparatives and they will reassess the house and say, "Oh, that

was wrongly assessed," and they've jacked that one up. So in fact your neighbours certainly don't want to share the information with you as to what their assessment is in case they become victims of the assessment scheme.

One of the great problems we've had over the years is that the people in Revenue, the assessors, want MVA at all costs because those are their jobs. It's estimated that some \$200 million per year is spent across the province in administering the assessment program, money which could easily be saved.

**Mrs Davies:** That's right.

**Mr Turnbull:** And I might say, it's slightly passing strange when, long before I was in politics, I exchanged an awful lot of very strong letters with the then Minister of Municipal Affairs, Bernard Grandmaître, on the subject of market value assessment, where he was wanting to say, "Well, we'll only do it if Metro requests it," and that has been the position of governments and they throw the ball back. But the responsibility is clearly shared equally between the provincial government and Metropolitan Toronto. There's no doubt about it.

**Hon Mr Cooke:** It's not what Darcy said.

**Mr Turnbull:** That's what I'm saying, and I'm fed up with the smug comments, the fact that the NDP championed the cause of being against MVA and many of their ministers in fact said they would fight against it at all costs, and now they're saying: "Well, that's a municipal affair. We shouldn't be mixing into it."

The question is, how can you trust politicians if they campaign on the basis that they're against something and then they vote in favour of it when it comes to a vote? Why bother going and voting or listening to politicians if they're not going to do what they say?

**Mrs Davies:** I think in this time probably politicians recognize at all levels of government that they aren't being trusted. We put them into power and it's a very sad state of affairs. Then when you beg and you plead and you listen to the experience of the other municipalities—the first one that went with market value was Niagara-on-the-Lake. Niagara-on-the-Lake is a pride of Ontario.

The man who started up the Ontario Association for Property Tax Reform, to be quite honest, died of stress over this. I got to know him very well and he promoted the idea of our joining with them. But it just seemed that whatever you did to your house, if you improved your community, if you took pride in your community, then they were going to sock it to you, which is what happens with MVA. Yet the provincial assessors come to the municipal councillors and say to them, "This is in the name of equity." It does not happen; there is no equity.

2020

**Mr Turnbull:** One last quick question: Do you have anything against paying your fair share of taxes?

**Mrs Davies:** Of course not.

**Mr Turnbull:** Thank you very much.

**The Chair:** Thank you very much for coming before the committee this evening and for your presentation.

I'd now like to call on the Summerhill Residents Association, its representatives or representative. Is there anyone from the Summerhill Residents Association here?

#### TORONTO ROOMING HOUSE ASSOCIATION

**The Chair:** I would then call the Toronto Rooming House Association. Are there representatives of the Toronto Rooming House Association? Would you be good enough to identify yourself for Hansard and to introduce your colleague.

**Mr Larry Chilton:** Hello. I'm Larry Chilton. I'm president of the Toronto Rooming House Association. This is Dave Vallance. He is one of our members who has helped me with this submission, among other members who have helped us.

The fate of the city of Toronto rests in the hands of the provincial government. On behalf of rooming house owners of the city of Toronto, we urge the members of the provincial government of Ontario to show the foresight and wisdom of leadership by voting against the Metropolitan Toronto Reassessment Statute Law Amendment Act, 1992, which has been requested by Metro Toronto council.

Throughout the relatively short history of this province, Toronto has been the focal point. Toronto has been the centre of economic activity of the province. Toronto is where the provincial Parliament sits. Toronto is where the Supreme Court rules. Toronto is a big city that is a major attraction for tourists from the United States, and even around the world, because of its reputation as a clean, safe city where people actually live downtown. Toronto is a wonderful city. By the way, we know this because we see a lot of these people coming from around the world and we provide accommodation for them.

However, Toronto as we know it is about to be changed; not just changed, but changed irreparably for the worse, we feel, if this so-called market value assessment, MVA, is allowed to creep in under the guise of more equitable taxation or tax reform.

If one were to believe the media, it would seem that this approval is just a formality, a rubber stamp, something the province must do without treading on deliberations or decisions of Metro council. We would have liked to give the government more credit than that. We would have expected the government to do a complete and thorough investigation of the impact and implications of this reassessment, as well as the methods of reassessment, before considering any sort of provincial approval.

All our members own legal rooming houses licensed by the city of Toronto. This should put them in the same category for assessment purposes, since the criteria for a licence is determined by city of Toronto bylaws. There appears to be no recognition of city of Toronto bylaws, official plans, zoning regulations or height restrictions. This seems to apply to many categories of property, not just rooming houses. We will examine rooming houses.

From a small random sampling of our members and the way this reassessment would affect them, numerous inconsistencies and incongruities became apparent. We discovered some licensed rooming houses assessed as single-family dwellings, which has been the traditional way they have been assessed by the city of Toronto. Others were assessed as multifamily or the same as apartment buildings. Still others



received a designation that may be commercial, but we don't know. One property in a prestigious neighbourhood actually shows a 20% decrease, while a property in a depressed area would have an increase of 120% from a much higher current tax that already does not appear correct.

Following are some examples of variations in tax rates. The actual assessed values are questionable in many cases.

If you want to look this over quickly, I think the important thing to look at is the final column, the tax as a per cent of market value assessment. A quick look at that and you'll see that it's quite common for discrepancies three times; I guess one person's paying three times as much as another person here. It seems to me that it's pretty wild, the variations we see here.

I refer to the asterisk here. From the outside, this is obviously an apartment building with six large two- and three-bedroom suites, well maintained and close to Dupont Street. It seems absolutely incredible that one half of a semi-detached house in Parkdale that is occupied by people on social assistance and assessed at \$429,000 will be expected to pay the same tax as another rental property assessed at \$1,425,000. It is apparent to us that the assessors were not working with any standard when properties with the same function and use are categorized randomly at the apparent whim of each assessor.

We also question why the assessors are allowed to determine the tax category on a random basis for similar classes of property. Should that decision not belong to the municipal government or even to the province? This is, after all, low-cost housing which we feel provides a good essential service to society. Should it not be supported on a uniform basis?

In the recently released Report of the Rooming House Review, City of Toronto, in which we had substantial input, by the way, the great need for this type of housing is emphasized along with proposals and funding for rooming houses owned and operated by the private sector. In fact, the province is currently providing funds to help save this type of housing. This is a classic case of the right hand not knowing what the left hand is doing and is a direct result of the incredible haste with which you are processing this mangled scheme.

Incidentally, when these types of incredible numbers were pointed out at the Metro hearings, Mr Tonks said, "Bring them to our attention and we'll fix them." The way he fixed MVA?

This leads to two problems. First, a large proportion of homes will not know the implications of not doing something, but we will be doing our best to inform them. Second, once they are informed they will start to appeal, along with home owners, business owners, tenants and owners of vacant lots, the municipality for its parking lots, and others who realize what has happened. This becomes a make-work project for assessors, lawyers and a lot of other people who will probably take crash courses. We know a lot of people are unemployed in Ontario, but is appealing assessment the kind of work we should be trying to encourage?

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Of approximately 120,000 tenants whose rents will increase as a result of this scheme, only 4,000 to 5,000 are residents of rooming houses. However, most of these people are in the lowest income segment of our society and many have disabilities that further disadvantage them. It is recognized that this

type of housing is most efficiently and economically provided by the private sector and it is lamented that in the past decade the number of licensed rooming houses in the city of Toronto has fallen from 900 to 545. This continues to drop, certainly, in this economy. This has happened for many reasons which haven't gone away, and when combined with the poor economy and the increase in tax because of MVA, there is little doubt that the number will continue to fall.

We have had rent controls and landlord-tenant laws that are very difficult for a small landlord to work with, increased city and fire regulations and now a tax increase that could not be foreseen. In our business, anyone charging rents that have been increased according to provincial guidelines is likely to have vacancies. Many rents have not increased for the past two or three years, and some have actually been reduced to pre-1988 levels to cope with a vacancy rate not seen in decades. I've personally heard of people who have reduced their rents as much as 25%.

Statistics show that this recession has been most severely felt by the city of Toronto. Even the perverted compromise of this proposed reassessment act would be like kicking Toronto in the head when it is already on the ground. It is ludicrous even to think that if there were a legal way to pass on this increase by even an extra 5% to the tenants, they would be able to pay.

MVA will mean many home owners will rent a room, further reducing the value of rooming houses, because of the vacancies and the fact that they will lower the rents to get the cream, the better type of tenants. Additionally, it is just as easy to receive the social assistance cheque by mail in a suburb or a non-licensed—illegal?—rooming house. By the way, this MVA, we feel, is just going to promote, as a number of other things are already promoting, illegal rooming houses. There's been a lot of work done to make the existing legal safe places to live. This is just another of a number of factors that are pushing people away from this safe accommodation that already exists into illegal rooming houses.

Continuing, this raises another point. The city of North York and other suburbs have consistently refused to legalize rooming houses because it would devalue their property. This is curious when they now claim that houses in Toronto are more valuable than in the suburbs. However, everyone knows that rooming houses are all over the suburbs, but since they have never been recognized, the chances that they have received similar assessments is very remote.

The recent record of bankruptcies and power of sales will be rivalled only by the number of boarded-up rooming houses and buildings and overgrown lawns. Have you ever seen the inner city of Detroit or Cleveland? Pass this act and come and take a look at Parkdale in a couple of years. Better yet, take a look at it today. There are already houses that have been boarded up.

While the watering down of MVA may have eased the conscience of some Metro councillors and saved the face of others, it has done nothing to address the real issue of fair and equitable taxation. It is actually going against the grain of the work being done by the Commission on Planning and Development Reform in Ontario and the reports of the Office for the Greater Toronto Area. Even diluted as is, the consequences of

this reassessment will be most devastating to the economy of the city.

When properties capped by the current proposal are sold, the full MVA tax will apply. From an investor's perspective, every \$1,000 increase in taxes will result in a \$15,000 decrease in value. Some realtors have said that a \$5,000 tax increase means a \$75,000 decrease in value for these types of properties.

Again, we question that the assessor should be determining property classes, when the city of Toronto has traditionally treated rooming houses as single-family dwellings.

We are also concerned about the way the assessment office is handling the issue. When our members called the provincial assessment office, they were told that they should not be concerned, that the increase would only be 5%, as if the proposal now before you were passed already. In fact, they were doing it back in October, after Metro council debated the issue.

It would be fair to conclude that the majority of ratepayers are not fully aware of what is proposed, unless they were patiently persistent and assertive during their inquiries. The proposed amendment, in its scrambled format, is shortsighted and will have the effect of lowering property value in Toronto, so that in five years the whole process will reverse.

The vote for this plan at Metro was a joke. Those who had a majority of constituents who got a break voted for it; those who had more losers than winners voted against it. Does conflict of interest mean nothing?

The city of Toronto cannot change anything. That is why we are here: You are the only people who can take a dispassionate look at it, and we are appealing to you to stop it. Canada, to the surprise of many, did not fall apart after the recent No vote in the referendum, nor will Metro disintegrate if the proposal is not approved by the province. The converse may be true if it is passed. Please vote "No MVA."

**The Chair:** Thank you very much for your presentation. I know a great deal of work and information went into it. I regret that our time is completed at the 20 minutes, but I do want to thank you for everything.

**Mr David Vallance:** Can I make one comment? The lack of attention around the table has been a bit disturbing. I know some have been following from their own paper. I was here yesterday when the railway people made their presentation, and a powerful one it was, in my opinion. They got a lot of attention because there was a \$12-million increase, I think, in their tax base. If just 300 of these rooming houses are going to face \$5,000 increases, which is quite possible, based on the statistics we've shown you, that amounts to \$1.5 million. It may not be quite as big as the railways, and we're not employing 16,000 people either. But we do house 4,000 or 5,000. I think it's an important issue, and I'm disappointed at the lack of attention.

**The Chair:** I appreciate the comment. Thank you for appearing.

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#### METRO CITIZENS FOR FAIR TAXES

**The Chair:** I'd like to call the Metro Citizens for Fair Taxes. If you have any copies of your submission, please give

them to the clerk. Would you be good enough to introduce yourselves for the sake of Hansard.

**Mrs Margaret Gardner:** My name is Margaret Gardner; I'm from Scarborough. Joan Schmidt is from Scarborough and Dora Ellis is from North York. Mr Paul Crawford represents another group. Metro Citizens for Fair Taxes represents quite a few groups. We are not just one group but a loosely tied set of groups all across Metro, because we find we haven't had a voice in the media or any other way. So we have been working behind the scenes, and our numbers are growing. In the last month, I think people have realized that it isn't going to change, and for that reason they're going to make a difference their own way.

Each group represents large numbers. In my group there are about 9,000. It's growing every day so I can't really keep a tab on it, but everyone is spreading that message, so it's going to grow rapidly. I know of several other groups. Some are 5,000, some are different numbers, but there are 18 of them. A 19th one joined this weekend. I was surprised that they would call me and express that, but it's really incredible how much groundswell there is over this issue. We represent a large majority of the citizens.

I know a lot of media have come out and said, "It's 50-50; it's this or it's that," and a lot of numbers have been thrown around, but we, as citizens, took the trouble to get the actual reports ourselves. There is 72% of suburban residential that is affected by this, that has been paying extremely high taxes for a very long time. They knew about that and they've waited a long time to get some kind of relief.

You'd go to your assessment office and they'd say: "You can't appeal this because of the vicinity clause. You're all paying high taxes, so you have to stay paying those high taxes." After trying that, they said: "Why don't you wait till next year? They're bringing in market value." People said: "That's a good idea. Then we'll try to wait for that." Up until about a month and a half ago they thought the process would work and this relief would come, but that didn't happen.

We're not satisfied with Metro's plan. I think that message has come from Toronto as well, but for a different reason. From our viewpoint, someone had better listen to our side. We've tried very hard to get our message out to the media and then they ask us: "Why didn't you come forward? Why didn't you say something?" We had press conferences. Different groups have tried. We put out extraordinarily informative things, and they suddenly say to you, "Well, we don't have to put it on the air." So we never had a voice.

We tried all the different avenues. All we have left is to work behind the scenes, and that's what's happening. It's rather spontaneous in the last month since the decision was made, because people can't take it any more.

This example we have up here is a North York home. It's three quarters of a mile from the Toronto home. I went through the rolls—and, of course, because we didn't have anybody to offer these numbers or figures or assessment rolls to us, we had to pay for them—and I found hundreds of examples of each with relatively the same tax within dollars and the same market value.

One house is just behind Spadina Road, has a large lot and a nice big home; three quarters of a mile from it, the other one is in North York. Under MVA they would have paid



the same tax, but their current tax—and there's quite a few of each example, not to represent only one isolated case; we really were careful not to do that—\$4,916 by North York and \$617 paid by the Toronto home.

We then went to all three levels of government—we went through the director of finance for the province, for the city and for Metro—to make sure that our implementation was as close to what can be expected to happen as we know at this time. There may even be more taken from us, because they don't know how much is going to be needed to cover the caps on the increases. These minuscule increases, I might add, are very tiny, and for someone to complain about that is kind of hard to believe.

But this is what will happen. First, the mill rate increase goes on, and we have estimated that to be—and we confirmed it—possibly between 8.5% and 10% next year. That's what I've been told is the estimate by most finance departments. That's a pretty round figure, but it's 1.5% either way; that's what they said. So we did it to both: put the mill rate increase on, took off the decrease on the North York home and got the 1993 tax. So this person is saving about some \$300 by next year. The following year you add the mill rate on again, take off 10% of the remaining decrease and they're almost right back where they started from within two years—not even, because by 1994 you're starting the year again. But if you take this plan all the way to 1998, they're paying \$7,000 property tax.

These are average people. These aren't high-powered executives or really wealthy people; these are the average citizens. I've got examples from all over Metro, tons and tons of assessment rolls that reflect numbers like these or even higher.

With the increase side, add on the 5% after you put the mill rate on and you get the 1993 tax. Follow the same procedure, and with the plan that Metro has now put forward and that you're saying you're going to approve, this is what's going to happen by 1998. If someone can tell me that the poor people in Toronto are suffering a recession, they should see what's happening in the suburbs. They don't have a clue.

In our area, the same house has gone power of sale twice in the last three years, but not just that particular house: all over the place. Go by the real estate offices all around our area: The whole window is covered with powers of sale. You ask those people why they lost their homes. When they're paying taxes like this and a mortgage and their utilities and their bills and raising children, you can't afford these things.

If everyone were paying his fair share, I suppose we'd have to swallow that, but that's not the case. We know that, and the people aren't going to take this any more. You say, "You're the majority and you haven't been forward." We've tried, we've really tried to get our voice in. I'm glad you're having these hearings for that reason, because at Metro they locked us out of the room. They filled the room early. No one tells this story. They locked all the people out of the room and at the last they let us in, when they knew our buses were supposed to leave at 10:30.

I stayed on because I was determined to see what the outcome would be. I knew so many people who really wanted to voice their opinion. It was so strange, because people walked up and said: "Hello. My name is Kola Akande." I

knew Kola. He's a wonderful guy. He's in our group. The funny thing was, it was a 22-year-old university student filling his place, laughing his head off and going outside drinking beer. They had it all stacked that way. It went on and on with name after name, and then the report came out in the media right away, "The people against it were out in droves, but no one was there to support it."

This is the kind of process we've dealt with. No one dared to say this, but I'll say it: This is not the way we thought it was going to be, and until someone wakes up—the people are so angry out there. They call me and I hear their pain. I'm not normally emotional, but this particular thing has brought out things in me I didn't even expect, but this situation has gone too far. These numbers speak for themselves, and this is three quarters of a mile apart. We're not talking from here to another city that's in another area; we're talking Metro.

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They say Toronto could split from Metro and they could become their own city: 650,000 people, in a world context, what would they really represent? This is a threat. We all know many of the things they've said are not true. We're one community. We are Metro Toronto and we should be treated like Metro Toronto, not like separate little coves and everybody has to be separate in their taxes and separate in what they pay for every single thing. It's not just the taxes this works on, it's been unfair on many other things, but this is the biggest dent and people have suffered enormously.

I have one more thing I really have to say. I've heard many members stand up in the House and say, "When you moved there, you knew what your taxes were going to be." That's another farce. If you bought a newer home, which I don't think should be a stain on your reputation—I think they've made some pretty weird comments about newer homes.

At the time when we bought in 1989 there was a shortage of homes so we had to go really far, almost to the edge of Metro, to buy a home we could afford, and so we inquired. We weren't stupid about this. I phoned the assessment office and I said, "What will my taxes be, because we have to know this?" They said \$1,756. I said, "Are you sure that's the final assessment?" They said yes.

Now, bear in mind I bought it secondhand, so it had already been on the market for a year and they should have known what the taxes were by then. When we purchased, I made the lawyer specifically get a letter from them indicating that's the case. We moved in and two months later we suddenly found out our taxes are \$3,400. We couldn't afford that.

You might say, "Gee, that's not too bad." Well, it's a lot. We still have the house, for how long I don't know, but what scares me the most is that I don't even have furniture in it, and when will I get any? I don't know if I'll ever be able to afford it and I thought: "Jeez, we have to live with this. We're the only ones in this boat." But since I got involved in this, I've seen so many people living like me. You don't see this so much in some cities but you do when you're stuck with this because you can't afford these things.

I don't say, "Well, poor me." I say what kind of deal is this if we can't treat everybody in this Metro area as a group? We make up this great city. Some of us even come from

Toronto, having lived there for a number of years, and have many friends there, but we all just want to pay a fair share and we're not against paying taxes; we're only against being treated unfairly. That word has been used a lot but it shouldn't be overlooked.

The other thing is that I have to talk about some ads that went in the paper recently. You have a handout there. They call that a citizens' group; well, I would say we're a citizens' group. We're not well connected, we're not the élite, we're not the money people in the country, but we're a hardworking, relatively decent class of people and I think we deserve a little bit better than that.

The city of Toronto has put forth these ads, "221,000 home owners will get unjustifiable tax increases"—the money they spent on this. What's really strange is that they try to scare everyone. Even people who didn't know what MVA is might think they're affected by it, "Poses a dangerous threat to home owners all across Metro." They write words that'll scare people who are tenants. The truth is that 306,000 people should get their taxes lowered but no one knows this, because this is what they see.

Next they see, "117,000 tenants are going to get increases under this plan." I was a tenant for many years and I resent what they're doing to them, because 309,000 of them really don't know that their rents will go down. That's three times as many but you're going to have people coming to your hearings who don't even know what they're talking about. They're not even going to understand the issue. They're just going to see this, because we don't have the money to counter these things.

But the worst one, this one, came out Monday and this is a blatant insult to the entire political process, I'm sure to the citizens of this great city—I would say this is the city, this is Metropolitan Toronto. "124,000 businesses will get tax increases," and then they go with the threat thing again. If you look at Metro's own report, there are only 125,000 businesses in all of Metro. How did they get that? Does that mean only 1,000 are getting decreases?

I beg to differ. If you look at Metro's report, the actual fact is that 54% of the businesses across Metro are getting decreases, so I would say I agree with our mayor. This is an information attack but it isn't a truthful attack. This should be condemned by you people because this misleads people who really wouldn't have known the truth. That's why, behind the scenes, what we're saying is, if you can't fix it, we're not against you or any one person or any one thing, people are just telling me over and over again: "We're not going to pay. We don't feel a justifiable reason for paying any more."

That's what they're saying, and there are so many of them. That's something I don't even recommend but that's what they're forced to do because they can't fight this. There's no way they can handle it.

I'll defer to my colleagues and let them explain what they have to say, if they have any time left, and I thank you.

**The Chair:** I know there are several who wanted to pose questions—

**Mrs Gardner:** Okay, certainly.

**The Chair:** —and I'm afraid we have a limited amount of time, so if you would like some questions, I think that

might be appropriate. If I could ask you one question, the chart you brought—do you have that on a page?

**Mrs Gardner:** It's on your handout.

**The Chair:** Okay, fine. Thank you. Mr Stockwell. We are somewhat limited so I would ask each member to be succinct.

**Mr Stockwell:** Yes, I appreciate the comments. Having been around this issue elected for 10 years, I understand exactly what you're saying. I've been to a number of meetings where the people have said the same thing. I can understand there is some emotion tied to this for the length of time you have been involved in this fight.

I've been through the tax rolls on a number of occasions. I also see that you have some tax rolls there. I'd just like to ask you a quick question. I've been through the city of Toronto tax rolls and I found literally thousands of people paying less than \$1,000 a month—less than \$1,000 a year—in taxes, going through the tax rolls; not just a few, but thousands. I've found them as low as a few hundred as a yearly assessment that they pay from the city of Toronto. Have you got any examples, or did you find that?

**Mrs Gardner:** I have tons of them. I couldn't afford to buy all the rolls so I went to just grab some from each—wherever I could—and I was appalled. I could have bought the whole thing, except I couldn't afford it. I don't think I should pay all my tax money to fight this. They're all like that. There's pages and pages. Each is hundreds and that's all they have.

**Mr Stockwell:** So it's not unusual to find less than \$1,000?

**Mrs Gardner:** No, not at all. I could go through them all with you, but I think that would be pointless. If anyone wants to look at them, it's just filled with them.

**Mr Stockwell:** What about in the North Yorks, Scarboroughs and Etobicokes of the world?

**Mrs Gardner:** In Etobicoke, from what I can see, just grabbing a random sample here, they seem to be extremely high. They talk so much about Scarborough, saying, "Oh, Scarborough this," but Scarborough isn't as bad as North York and Etobicoke in terms of dollars.

**Mr Stockwell:** I know it isn't.

**Mrs Gardner:** Maybe in numbers of people paying too much, but they're actually paying really a lot higher.

**Mr Stockwell:** A lot in some areas. Thank you.

**Mr Mammoliti:** I just want to clarify a couple of things before I ask you a question very quickly because I don't have much time. This is just a little misleading.

**Mrs Gardner:** We just wanted to give you the document that shows—

**Mr Mammoliti:** You disagree with the application here?

**Mrs Gardner:** Well, I do in the sense that when they come out—

**The Chair:** I'm sorry, just for clarification, because we couldn't see what you were saying was misleading, Mr Mammoliti.

**Mr Mammoliti:** Yes, it's an application from Save Our City.



**Ms Dora Ellis:** That is not us. That is the people who are fighting us.

**Mr Mammoliti:** Yes, okay, I just wanted to clarify that.

**The Chair:** I just wanted us all to be clear what it was you were talking about.

**Mr Mammoliti:** The front page of the handout, okay? It's not them. They're actually opposed to them. I just wanted to clarify that.

First of all, all six of you should be proud of yourselves for coming out here today. I've been waiting on a group like you to come out and basically talk about what we've been talking about for the last three days, so you should be commended for having the guts to come out here.

I have been saying probably everything you've said except, of course, that particular example. I've been saying everything you've been saying for the past three days and I've been ridiculed by Mr Turnbull and by Ms Poole, who isn't here to hear your story, unfortunately. They've been calling us every name in the book and all we've been doing is trying to talk about the injustice; trying to talk about what's happening in the suburbs; trying to talk about the fact that this will actually help 57% of the residents in Metro.

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**Mrs Gardner:** Actually, it's 65% across Metro, all residential.

**Mr Mammoliti:** Is it? I stand corrected. It will help 200,000 of the 350,000 rental units out there and those tenants. All of this stuff I've been saying, and what I get is Mr Turnbull calling us a bunch of socialists who don't know what we're talking about and I get Ms Poole, who isn't here to hear your story, telling us how wrong we are and how unfair we are as a government. So I want to thank you for coming out. I appreciate what you've done today, and you've got this MPP's vote.

**Mr Tony Ruprecht (Parkdale):** Just very briefly, Ms Gardner, I am just wondering. Your group just started recently, or did you do this for a few months?

**Mrs Gardner:** Actually, we found out about the change coming to market value and that's what motivated most people, because they didn't expect it to be changed. They thought it was going to go through.

**Mr Ruprecht:** Did they just call you, or how did you get started in this?

**Mrs Gardner:** I heard something and then I called someone. I got a name somehow from some news item or something. I called them. Then they told me more about it. Then I decided that to be really informed was the best measure, so I investigated everything I could myself and for some reason, when things came up, I decided to go and find out more. As that came about, more and more people found out about me, and then tons of people started phoning me and I actually have nerve damage in my left hand from answering the phone, and that's not a lie. My doctor said to me, "What did you do, fall asleep on your arm every night?"

**Mr Ruprecht:** How many telephones do you have in your house?

**Mrs Gardner:** One, and that one should be going soon too.

**The Chair:** I'd like to thank you all for coming and for the work you've put into your presentation. I might just add I hope that you'll never be concerned or afraid about coming to appear before a legislative committee or a municipal committee. We should always ensure that in those public places everyone feels comfortable and free to make their presentation, so we're glad you could be with us tonight.

**Ms Ellis:** We had other people who had other aspects of this.

**The Chair:** I'm awfully sorry. I'm afraid we have to stick to our time frame.

**Mrs Gardner:** Can they come back?

**Ms Ellis:** We got less time than the people before.

**The Chair:** I'm sorry, ma'am, we keep to this time. I believe Mr Crawford is going to be making a presentation.

**Mrs Gardner:** As long as you know that she's from a group in North York. We have members who are in groups in Etobicoke as well, and it's funny, because they're all calling me, so I'm like a hub and then there's another hub. It's really weird. It's just so loosely—

**The Chair:** If those groups would speak with the clerk, we could try to find another time when you can make that presentation, but as Chair I must ensure that everybody has the same amount of time and you have had 20 minutes, which is what the group is permitted. If we didn't do that, we'd be here until midnight. We'd be happy to keep your presentation if you have it written out, but, as I say, Mr Crawford is going to be appearing later and we can make room.

**Ms Ellis:** Can we bring it in? I didn't prepare it until today because we didn't know until yesterday about this.

**Mr Stockwell:** If you type it up and give it in, they'll distribute it.

[Interruption]

**The Chair:** If that's agreeable to the members. The gentleman who is appearing next has said that he's willing to wait for five minutes if you could say what you—

Interjections.

**The Chair:** Okay, and I'm sorry to be difficult, but it's just that we're trying to get in as many people as we can. Please go ahead.

**Mrs Joan Schmidt:** I just want to add two things to what Margaret had to say. I'm going to be very brief, but I think it's really important.

I've been in contact with a couple of real estate agents in my area who have mentioned to me that the powers of sale in our area are so high that they see 18 or 20 a day coming across their desks just for the city of Scarborough. I said, "Is that every single day?" He would have given me some sort of paperwork or testimony, but I didn't have time to get it in the mail or I didn't get it today from him before I came down here.

I said, "Now is that every day?" and he said, "Well, okay, 14 or 15 would be conservative." I said, "What about the city of Toronto?" and he said to me, "Four to five would be very generous," what they would see per day coming from the city of Toronto. He said to me, "The reason that people are losing

their homes in Scarborough is because the property value has dropped so much here and not in the city of Toronto."

Another thing that I want to point out is that we went to a Scarborough council meeting to ask about our taxes and when we went there, there was a gentleman there who actually did the assessment for the city of Toronto in 1948, 1949 and 1950, and the assessment system they used—he called it blue-grey manual or something—originated from the States. He then went from there to another job for the Greater Toronto Assessment Board and he did 13 municipalities at that time that made up Metropolitan Toronto. They didn't have time to do 13, they only did 12. The one they did not do was the city of Toronto. So it has never been redone, and there was no equity at that time in relation to the other 12 municipalities that made up Metropolitan Toronto.

He also did mention that at that time there was a bylaw for the war veterans and it is a tax that is frozen and that has never been taken off the books. No politician has ever taken it off the books. We went down and looked at the rolls and some of them are like \$257. These are the ones that are probably coming up with the \$600 and the \$700. But those are some of the causes of the inequities.

**Mr Stockwell:** You should make it clear it's the First World War veterans.

**Mrs Schmidt:** Are they First World War? He just said "war veterans," so I don't know. I have his name, I have his phone number, his address, if anybody wants to question him. He actually did the assessments in the city of Toronto and then he did all the municipalities. He is alive and I did see him and I will give you his name and address and phone number, if you want it, to prove that the city of Toronto was never, ever assessed on any equity to the rest of the municipalities.

**The Chair:** If you'd be good enough, I'll ask you to give that to the clerk.

**Mrs Schmidt:** I will.

**The Chair:** Thank you again very much for coming out this evening.

#### SOUTH ROSEDALE RATEPAYERS' ASSOCIATION

**The Chair:** I would now call the South Rosedale Ratepayers' Association, Mr John Grieve.

**Mr John Grieve:** Yes, sir. I feel like the Devil incarnate. That was a very moving speech. I hope you all realize that you've got a hell of a problem on your hands. It's not her fault that she's here; it's not my fault that I'm here. Anyway, this is Tanny Wells, one of our executive, and I'm also on the board.

In case you don't know, south Rosedale is an area in central Toronto which is bounded on the south by Bloor Street, on the west by Yonge Street, on the north by the CPR right of way, and on the east by the Bayview extension.

I just wanted to correct the thought that Rosedale was an exclusive haven of the rich. There are some very well to do people there; you're not looking at any here. But we have a lot of tenants, we have a lot of fixed-income pensioners, we have a lot of rooming houses. Again, in light of that rather emotional and very touching speech from the lady ahead of me, I find it somewhat ironic that equity and fairness have

been the self-proclaimed touchstones of the government since it took office and yet it's given second reading to a bill which is going to cause a lot of grief for many of the citizens.

We in south Rosedale are unalterably opposed to the proposed plan. I have submitted a memorandum, but in view of the fact that I've given up a little time, I'd just like to make seven basic points and then I'll pack my bag and go away.

#### 2110

You've heard most of these before, but let me just reiterate them. We object to the proposed plan. Firstly, it is tied to the real estate markets, which you've heard from other speakers tonight are volatile and very unpredictable.

Secondly, it will present serious financial hardship to a great many residents and small business people. Many pensioners are just simply going to have to sell their homes.

Thirdly, it will have the effect of bankrupting many small businesses. If you can look at the material, I just gave you an example of what's happening to one little stretch of businesses right in our immediate area.

Fourthly, ultimately it will strangle the central core of Toronto, leaving an urban wasteland for suburban residents to pass through on their way to work. You've heard allusions tonight, and I can repeat them, about other cities in the US. We don't want Toronto to be like that.

Fifthly, and we've heard this before in the short time I was here, the valuations have been extremely badly done. I've cited a couple of examples in there. Furthermore, the tax base on which we calculate our taxes will always be at least four years from reality, and the costs of administering the system will be absolutely horrendous.

Sixthly, the full impact at the date of sale is totally unfair. It's putting on the person who, for whatever reason, wants to sell his property a tremendous burden. In effect they are the ones, I assume, who are going to be financing the decreases. I think that should be changed.

The seventh point is, and we've heard this before, that the government has appointed a Fair Tax Commission which, as I understand it, being a layman, has been set up to deal with and make recommendations regarding tax inequities. To me, it only makes sense to wait and hear what they have to say. All I can say is that we urge you to recommend to the government that this be done.

I will say no more. Do you have any questions?

**The Chair:** Thank you very much for your presentation. Mr Rizzo, did you have a question?

**Mr Tony Rizzo (Oakwood):** No.

**Mr Mammoliti:** I do.

**The Chair:** I'm sorry; I've got the wrong Tony. I needed last names. Mr Ruprecht and then Mr Mammoliti.

**Mr Ruprecht:** I appreciate your comments, and my sympathies obviously are with you, especially looking over my notes. I recognize that you do make sense. All your points here are well taken, but my question is that you indicated earlier that you were very much moved by the points made by the previous speaker.

**Mr Grieve:** Yes, I was. I think you couldn't help but be.

**Mr Ruprecht:** You couldn't help it, that's correct. In fact, throughout your presentation your comments were peppered



with indications of that speech, yet I see what you're saying here. We've got a problem on our hands, as you indicate. Knowing well your presentation and the presentation that came just before you, has that changed your position at all?

**Mr Grieve:** No, it really has reinforced my position that we've got one hell of a problem and it doesn't help me feel that what is being proposed is the solution. We've heard that our tax dollars go to all sorts of things, particularly education and welfare, which should not be a burden of the property owners. I think that should come out of the general revenues of the province of Ontario and be equally shared by everyone. I have no idea what the tax commission is going to say, but it might well say something like that, and then maybe we can rationalize the tax system in Toronto. Perhaps the unit tax system—again, I am not an expert and the last thing I expected to ever be doing was addressing a committee of the Legislature, but here I am.

We've heard time and again that there's been no impact study. I can show you an impact; I can show you the owners of those businesses, particularly the tenants. If they're all moved out of there and the buildings are boarded up and the landlords haven't got anybody to rent them to, then the landlords go broke and there are no taxes. It all goes back to the suburbs anyway.

**Mr Ruprecht:** Do I have a second or not?

**The Chair:** A short supplementary.

**Mr Ruprecht:** Short, okay. You're absolutely right; there have been no impact studies. But we do know now, certainly from the city's point of view, what some of the impacts will be. We know the increases in GO Transit. We know there are no caps, for instance, on empty lands. We know that some of the jobs that we really need to get ourselves out of this recession in downtown Toronto—the railway lands certainly—nothing much is going to move in that direction. So in terms of economic impact studies, while it is true that none have been made, and hopefully they will be made, the predictions are very grim.

**Mr Mammoliti:** Thank you, sir and ma'am, for coming out. If you don't mind, I'd like to just switch over to the homes in Rosedale for a second and ask you the average price of a home in Rosedale. Would you have those statistics?

**Mr Grieve:** I wouldn't. Mrs Wells is in the real estate business, so she would be able to give you—

**Mr Mammoliti:** The average price for a home in today's market.

**Mrs Tanny Wells:** The average price for a home in today's market. Again, one of the difficulties—and I'm not trying to hedge this—in a situation like Rosedale is that we have a tremendous variety of homes. There have been in the last month some sales over \$1 million, one close to \$2 million. There have been many more in the \$400,000 to \$500,000 range.

**Mr Mammoliti:** The point I'm trying to make is that the people in Rosedale are paying roughly \$8,000 or \$9,000 a year for taxes for those homes.

**Mrs Wells:** That all depends. In some of the new—

**Mr Mammoliti:** I believe that's the address.

**Mrs Wells:** Wait a minute. On some of the new construction in Rosedale—and there are many—they're paying

very high taxes, and some of our people will in fact have cutdowns.

**Mr Mammoliti:** If I'm not mistaken, the average is about \$8,000 or \$9,000 a year.

**Mrs Wells:** It could be.

**Mr Mammoliti:** In my community we have homes that are worth \$200,000 to \$250,000, and those individuals are paying on an average \$3,500 a year for taxes. To me, that's not fair.

**Mrs Wells:** No. I would agree with you.

**Mr Mammoliti:** On a home that's worth \$2 million and paying on an average \$8,000 or \$9,000 in taxes a year, compared to those in the suburbs that are paying almost as much for a home that's worth not even a quarter of the price, that is unfair. I'm not saying I disagree with you in terms of the tax structure. We definitely have to do something in terms of fixing the situation across the province.

Where I disagree with individuals like yourselves who come to the committee is, keep it separate. Let's talk about the Metro proposal and talk about the fairness that this provides for perhaps a short-term period.

**Mrs Wells:** Could I respond to you for a minute?

**Mr Mammoliti:** What would you, as a representative from Rosedale, have to say to an individual who's paying almost \$4,000 in terms of taxes for a house that is a quarter of the size and worth a quarter of the price of most of the homes in Rosedale, when you come here and say, "Halt it; stop it; don't let it go through"? These people want their decrease. What do you have to say to them?

**Mrs Wells:** What I have to say to that is there's been a real crisis in leadership in this community that's allowed this to happen. I went down to the Metro council meeting. I have never seen such an exhibition of fear and greed. I think I got the feeling of what it might have been like to be in the Coliseum. Everybody is so really emotionally involved in this and nobody is taking the commonsense approach of, "Let's stand back, figure out what's the best thing and get on with it quickly."

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There's no question that what's going on in the suburbs is not fair. We aren't asking you to carry on doing that. We're asking you to look at the best information you can get, look at the impact studies. Some of us have been involved in this city through the reform movement. Because we live in Rosedale, it's very often difficult for us to actually speak out because we're put in the corner; we don't hurt, right? There are lots of powers of sale in our neighbourhood, as a matter of fact. We aren't immune to this.

I believe very strongly that somebody—and we're looking to the provincial government; you're the only place we've got left—should say: "Hey, Metro Toronto you're important to us. You've got to work." This can't go on. You can't have this business of setting up the city against the suburbs, and the politicians in the suburbs today terrifying people and pointing at what we're paying as opposed to what they're paying. We want a fair situation. Market value, it turns out, does not seem to be fair. I think that's the clear message we should be getting.

**Mr Mammoliti:** Well, I disagree with you. I think it's better—

**The Chair:** I'm sorry, Mr Mammoliti. Mr Turnbull.

**Mr Turnbull:** Thank you for your presentation. Everybody who has come here has complained that the present system is inequitable, and everybody agrees there should be change. I will quickly point out the absolute inaccuracies with what Mr Mammoliti was saying, inasmuch as the average price of a home in south Rosedale is nowhere near \$2 million. He just displays the fact that he knows nothing about which he's talking.

**Mrs Wells:** No. There has been, I believe, less than one sale in the last year at that price.

**Mr Turnbull:** Yes. The biggest problem we have is clearly somebody who stands to get a reduction and feels aggrieved because he feels he's been paying too much taxes. I don't blame them saying, "I want it and I want it now," and that is fundamentally what is happening. But at the same time, we're saying, "Let's build a fairer system."

There was one gentleman who came in here today and his suggestion was: "Fine, pass this measure for one year. Instead of having it for five years, pass it for one year and force Metro in conjunction with the province to come up with a better system within a year." That seems like a reasonable proposal.

There has been no study ever done of unit assessment for years. The city of Toronto and the city of North York have been on record as requesting an impact study of unit assessment. It was always refused because it was said that it was too expensive, and yet this assessment which has just been done, where there are so many inaccuracies that you could drive a bus through it, and there are going to be mass appeals as a result of it, cost \$11 million.

I would ask you: Would you be prepared to accept this scheme for one year if there was a commitment by the government to put some money into looking at a more equitable scheme?

**Mrs Wells:** I have a slight problem with that, simply because I am in the real estate business and I know that with the point of sale impact thing, it could be very, very tough on home owners who for some reason have to make a move. If you could say to them, "Fine, don't move; nobody will move for a year; we'll freeze up and all the real estate agents can go away for a year," maybe, but I think that's one place that would be a real problem.

**Mr Turnbull:** I agree with you.

**Mrs Wells:** But the rest of—

**Mr Turnbull:** The point of sale is a real problem and, quite frankly, the government is suggesting that it has a problem with it. It could have fixed it—

**Mr Grieve:** Excuse me for interrupting. Couldn't the government just say—

**Mr Turnbull:** They could refuse it. It's that simple.

**Mr Grieve:** Because the minister himself—

**Mr Turnbull:** They are the ones who drafted the bill.

**Mr Grieve:** An article in the *Globe and Mail* a couple of weeks ago said, "Government Against MVA," and hey, great.

**Mr Turnbull:** Yes, everybody read it with the same glow and suddenly you find out that it's just posturing and then the very next day they brought in the bill—

**Mr Grieve:** I struggled through the bill.

**Mr Turnbull:** —and it had no guts in it. All they require is for Metro to pass a bylaw. Well, Metro has already voted on this in 1988-89 and again this year, so there's nothing to suggest that it's not going to pass that bylaw. They can pass it in five minutes.

**Mr Grieve:** Exactly.

**Mr Turnbull:** That's the problem we face and you, as a real estate agent, understand the kind of reductions that we've seen in neighbourhoods like yours, disproportionate to the rest of Metro.

**Mrs Wells:** Yes, I believe that—

Interjection.

**Mrs Wells:** Yes, but—

Interjection.

**Mrs Wells:** I think they have occurred everywhere.

Interjection.

**Mrs Wells:** I know. That's the problem, though. That's the problem with continuing a dialogue like this because it's polarizing, and I look to you to provide some leadership that takes the high road and says, "What's the best thing for the whole community?" and not somebody's ox being gored at the expense of somebody else's benefit. That doesn't create a very positive community for us to live in.

**The Chair:** Thank you.

**Mr Grieve:** You've made us, in effect, an adversary of that lovely woman, and she probably thinks I'm okay, too, if we got away from this. My own partners—

**Mr Turnbull:** We have to find a way of bridging these problems.

**Mrs Wells:** Yes.

**Mr Grieve:** My own partners live in Scarborough. There's tension.

**The Chair:** The Chair is going to exercise his discretion and allow one brief question by Mr Rizzo.

**Mr Rizzo:** I think we all agree here that there is a consensus that this system doesn't work and it's not going to work and it's not fair and has not been fair for the last 50 years, since it has been put in place by the friends of Mr Turnbull—it's easy to judge—who doesn't know anything, apparently doesn't know how hard it was even for me to get the report that I got two months ago or last month. They've been working on this for years and years, so postponing one year won't mean anything and they won't be able to do anything. It just shows it's demagoguery.

**The Chair:** Is there a question?

**Mr Rizzo:** Yes, the question is this: Do you know that for those people living in Rosedale, other property owners also in Metro are paying the higher taxes just to support you?

**Mrs Wells:** I understand that is a debatable question, that in fact there are some fairly substantial transfer payments going to the suburbs. I think it's a very complex issue. What we have always said is that we want fairness, but we don't



believe it comes from the market value system. I for one, as a citizen of this city, I'm tired of being pilloried like this, and I don't want the people from Scarborough thinking that people in Rosedale are terrible people.

We've paid our dues to this city. A lot of the people who built the city came from there. It's an old, old neighbourhood which we've worked very hard to keep as a nice place to live, to keep liveable, and we've tried to be good citizens. I don't think that it's fair ball to say that the people in Scarborough and North York are subsidizing the people in Rosedale.

**Mr Rizzo:** It has not been your fault, but that's the case, unfortunately.

**Mrs Wells:** I don't believe it's true.

**Mr Grieve:** With respect, can I just comment?

**The Chair:** Yes, a final comment.

**Mr Grieve:** I don't know where I got this number; it was either from Councillor Gardner down there or from Councillor Bossons, but the number that I have in here on page 2 is that \$316 million is already transferred from the city to support suburban schools.

**The Chair:** I'm sorry that we're out of time, but I want to thank you for both your presentation and also for your generosity earlier in allowing us a few more minutes with the previous group, and perhaps there some symbolism in all of that that may help us through these difficult issues. We thank you again for coming.

**Mr Grieve:** Thank you for the hearing.

PAUL CRAWFORD

**The Chair:** I now call Mr Paul Crawford. If you would come forward, please, Mr Crawford, a copy of your submission is being passed out. You have 10 minutes and please begin when you're ready.

**Mr Paul Crawford:** I'll try to be brief. You've got my submission. I suggest you read it, if there are any questions. I'm going to digress from it a little bit because I've been dealing with this since I moved to Scarborough six years ago and found out that I was being ripped off by the assessment system.

It's really a very simple problem. Taxation must be fair and equitable. At this particular time, it is not fair and equitable. All of the studies, all of the years, everything that has gone before us today has indicated that. You do not need more studies to determine that. You also do not need more studies on unit costs or unit business; no, you do not. Market value assessment has been established as the fairest way to go, as the fairest way to base taxes to try and correct what's been going on for so many years.

Basically, the people in Scarborough, for instance, have been paying thousands and thousands of dollars. I mention this in my summation. If we decide that we're fed up enough and decide to take this to Divisional Court, it could be ruled that unfair and inequitable taxation could be retroactive. You may have to go back and pay back the amounts of money that you've taken off these people unfairly. When I say "you," I don't mean this particular government; I'm talking about government in general.

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I've made some suggestions in here, and I've given some examples. I think everybody's problem is the same if we can get to the heart of it. Whether they're running around here or somewhere else with "Stop MVA" or whether we're saying, "We don't want any more higher taxes," we're basically saying the same thing. The problem with the "Stop MVA" is that what they're saying is: "Listen, you've been ripping off those people out there for the last number of years. Would you please keep on doing that and leave me alone." You're not going to do it any more. You're not going to do it to me personally any more because now I know what my taxes should be, and that's the way I'm going to be paying my taxes from now on, the way it should be through fair market value assessment. I think an awful lot of people are beginning to feel the same way.

Scarboroughites, generally speaking, have not had the opportunity to come down and storm the Parliament buildings or storm Metro. I think what should have happened is that some of those hearings should have gone out to Scarborough so you could have felt the way we feel. It might be fine to say, "Please don't give me any more higher taxes," but think about the people that have already been suffering higher taxes for the numbers of years they've been living in the same vicinity.

Think about this also, and make this change when you get back to the legislation. We people who decide to fight taxes that are unfair, when we go to an assessment hearing, we don't want some assessor saying to us: "Listen, you live in a certain vicinity. I decide what that vicinity is. I have decided that vicinity is taxed fairly. Therefore, you have no argument." When you take it even further and go to the OMB and it gives you the same argument, when it is allowed to define "vicinity," it makes for all kinds of transgressions. So one thing your government has to do is get that stopped.

Basically, taxes are a distribution of expenses among the people who are using the services. The way I understand it is broken down is that there's 25% municipal, 25% Metro and 50% education. That's not just used up by the people in my neighbourhood. The 25% portion is used up by everybody in Scarborough, and I should be able to look at Scarborough for that portion and be fairly assessed on that basis over all of Scarborough. The part that you're using for Metro, the other 25%, I should be able to look all over Metro to determine whether I'm being assessed fairly and equitably. The big one, the education, I could say "Metro," but it actually goes beyond that to make sure that it is fair and equitable.

Just to jump around a little bit, I don't think we would have had this problem today except that somebody a long time ago realized that the system wasn't fair and equitable and did nothing about it. They've let it continue until taxes have become so high that you can't help but notice that your neighbours are paying a good deal different than you.

Here's another thing: When you load 15% on to the taxes of the people in Toronto, let's say they're paying \$1,000, that's \$150; when you load it on somebody who is being unfairly assessed, that's \$300. So you're expounding on the error over and over again as taxes go up.

It's simple. The system is wrong. Correct it. After you correct it and you still need more money from us because you

decide the businesses can't go down—and I agree, they can't go down—at least when you come back to us and ask us for more money, you'll be doing it on a level playing field. Is that too much to ask?

If any of you here doubt that that's the situation, then I suggest you had better do your homework: You had better get out Scott Cavalier's study, you'd better get out the study that was done before that and the one that was done before that. They all tell you the same thing: Market value assessment is the best way to go. It tells you something else: The system is not fair, the system is not equitable. Nobody can argue with that.

It's a human rights issue. If we were all women or if we were all coloured or if we were all a minority group, you wouldn't think of treating us this way. Try to think of us as a minority group that is being discriminated against and get that thing changed quickly.

If I can answer any questions, I'd be glad to.

**The Chair:** We have time for just a couple of questions. Mr Mammoliti and Mr Turnbull.

**Mr Mammoliti:** I'm going to stick up for the people who are wearing the badges here for a second, even though I agree with you in terms of MVA. The people who are wearing badges I've listened to over the last three days, and the consistent message they're giving us is that there's a problem all over the place. They're concerned about MVA because it bumps up their taxes in the middle of a recession. They're upset about it, they're depressed about it, and they want us to do something about it.

The difference I have with them is that this is a Metro plan and not a provincial plan. If we were to change that, it would lead to a precedent that is very dangerous for the province.

I'm going to have to stick up for them in terms of understanding why they're upset. They're upset because they know the system is flawed, and they're coming to the provincial government, using this opportunity to say: "There's a problem. Rectify it."

And we are listening. Now, whether we do it with MVA or whether we look at the whole structure is up to the province.

**Mr Crawford:** I'm not disagreeing with you.

**Mr Mammoliti:** But you said something that really hit me: that if ratepayers in the suburbs got together and took the government to court, they'd win, in terms of fairness, in terms of equity, all their taxes back retroactively for 39 years.

**Mr Crawford:** I was saying that if it went to Divisional Court and you were to lose, it might not just be a case of the Divisional Court saying, "Yes, this has not been fair and equitable, therefore you must enact this right now." They would be in effect saying, "You have been"—if you'll pardon the expression—"screwing these people for a large number of years." It could be retroactive. It could mean that you haven't had the right to overcharge me for the last six years or somebody else for 20 years or somebody else for four years.

To me, it is so fundamental that taxation has to be fair and equitable in a democracy. If it's not fair and equitable we don't have a democracy, and if we don't have a government that can make that one fundamental thing, we don't have a government either.

I'm not knocking the people running around with those buttons, even though they're very well organized. But really what they're saying is, "Stop higher taxes." We don't want to split the communities by saying, like I said before: "They've been paying higher taxes. Keep it that way; don't load it on me." All of us are saying the same thing. If I sat down and negotiated with them, I would say: "Basically, what you want to do is keep your taxes the way they are. Basically, what we want to do is get ours down where yours are."

**Mr Turnbull:** Mr Crawford, give me a sense of your own home. How much frontage do you have?

**Mr Crawford:** Mr Turnbull, frontage doesn't make any difference.

**Mr Turnbull:** Just humour me for a second. How much frontage do you have?

**Mr Crawford:** I have 30 feet.

**Mr Turnbull:** How many bedrooms do you have in your house?

**Mr Crawford:** Two bedrooms.

**Mr Turnbull:** And what are your taxes?

**Mr Crawford:** A little over \$2,600.

**Mr Turnbull:** And they're going to go down from that?

**Mr Crawford:** Yes.

Interjection.

**Mr Crawford:** Just to respond to that gentleman, it doesn't make any difference what the amount is; it's equity we're looking for. If I had said \$8,600, I guess you'd feel better.

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**Mr Turnbull:** What do I say to somebody in my neighbourhood who has a two-bedroom bungalow—admittedly, it's a 60-foot frontage—of 1950s vintage, who are currently paying \$5,600 and are getting an increase on their MVA? The house is not in particularly good condition. They're pensioners and they don't really use any services: There is no sidewalk, the road is in poor condition, and there are no storm sewers; there's just a ditch. What do I say to them about the fact that they're going to be paying more under this system and they're currently paying \$5,600?

**Mr Crawford:** Mr Turnbull, there are anomalies all over the place. We can all pick them out if we want to. I don't know that particular one. Basically, their taxes are too high.

**Mr Turnbull:** But they're getting an increase under market value.

**Mr Crawford:** Their taxes are too high now and they will be much too high when they get that increase, but that doesn't have anything to do with MVA being the best system.

**Mr Turnbull:** It certainly does.

**Mr Crawford:** No matter what system you use, you're going to have anomalies.

**Mr Turnbull:** That's not an anomaly. Developers were buying up houses in this area, knocking them down and building monster homes on them. The people who were living in the existing homes had no control over the fact that the developers were bidding up the prices. Their use of services hadn't increased, their ability to pay hadn't increased, yet, as



a result of the fact that developers had deemed that to be an area for hot real estate, the values were being bid up. Their taxes are going up in lockstep with them. How can you equate that with fairness?

**Mr Crawford:** Because MVA is the fairest system of them all. The system you have now has already proven to be unfair, so they've looked for many years to find something that is fairer. MVA is the best thing they've come up with. There are anomalies. These people have got to have the opportunity, when it's finally put in, to do the same thing I've been trying to do: go to the assessment board and have it changed on the basis of what's happening.

**Mr Turnbull:** So you would have my pensioners pay more because their house has gone up in value.

**Mr Crawford:** What about the pensioners who are paying more than that now?

**Mr Turnbull:** Excuse me. Your taxes are \$2,600.

**Mr Crawford:** Those are my taxes.

**Mr Turnbull:** Yes, and you've got a two-bedroom. These are people who are paying \$5,600 in a 1950s bungalow with no storm sewers. Why are they having their prices bid up?

**Mr Crawford:** Because they're using a system of market value assessment.

**Mr Turnbull:** That's precisely my point.

**Mr Crawford:** And you can find other examples, but what about the thousands—

**Mr Turnbull:** Unit assessment is a lot sounder and it's a lot fairer.

**Mr Crawford:** I would agree that unit assessment is a lot sounder, and in unit assessment you'd have the same thing happening. You'd still have to come to a fair system, no matter what you use. If they had come up with a unit system, you'd be sitting there arguing, saying, "The unit system has got anomalies, so the market value system would have been better." It's the best system you're going to get for the time being.

**Mr Turnbull:** There are many people who would disagree with you on that.

**The Chair:** On that, I'm afraid we've reached the end of our time. Thank you for coming this evening and making your presentation.

#### TORONTO TAXICAB OWNERS AND OPERATORS ASSOCIATION

**The Chair:** I call now the Toronto Taxicab Owners and Operators Association. I'd like to note for the members of the committee that there is one other presenter whose name did not get on to the list and who will follow the Toronto taxicab owners' association.

Would you be good enough to introduce yourself for Hansard and go ahead with your presentation.

**Mr Sikko Wiersma:** Thank you, Mr Chairman. My name is Sikko Wiersma. I was born in Holland. I came to this country in 1951 and was educated in this country. My father was a building contractor in Brockville, Ontario. I went to high school with Bob Runciman, who's an MPP here. He and

I are the same age. His father was editor of the local newspaper in Brockville. We go back a long way.

However, getting back to the real world, we have a very serious problem in this community. My industry, the Toronto Taxicab Owners and Operators Association, is not a bunch of rich fat-cats. We have very serious problems in terms of a decline in demand and a decline in investment in our industry. The investment value has dropped in the last two and a half years from approximately \$300 million to \$150 million and declining.

Most of the people who work in our industry are immigrants; they were not born in this country. Approximately 80% of taxicab drivers are immigrants.

There's a discriminatory aspect to this system we're dealing with. What I want to talk about first is this committee system. This is the standing committee of social affairs. This is probably the appropriate committee to deal with this problem, because you're going to be dealing with a lot of social problems from the city of Toronto after a lot of the small businesses have gone broke when they have to pay this market value assessment on their businesses.

I've heard home owners. I think property owners have one problem, but business operators have a different problem with market value assessment: They've had values assessed on properties which they don't necessarily own.

I'll quote you one example, Mr Peter Zahakos, who runs Zack's Taxi at Dufferin and Bloor. He's been a very successful operator over the years. He's of Greek origin; he's also an immigrant. A little over two years ago he was operating in excess of 50 units in this city, but because of the decline in the economic activity I believe he is down to somewhere in the neighbourhood of 30 taxicabs. However, MVA will double his business tax to \$8,062 a year from \$4,776 current. That's the business tax. This has nothing to do with Rosedale or Forest Hill or anywhere else; this has to do with a business tax. Now, on the property he's leasing, the premises he's operating from, the tax will jump to \$27,076 from \$16,021. This is a secondary increase which is not faced by home owners.

The second aspect of this discriminatory taxation is regional. I believe the previous deputant made a very good point. The suburbs have been overtaxed, and there's a reason for that. When my father was a building contractor and was building a house for someone on the outskirts of Brockville, which was a smaller community, the people knew their taxes were going to be higher because they generally had larger frontage, they had to pay for more services, more roads—

**The Chair:** Can I interrupt for a second? For Hansard, could you tell us what newspaper the clipping you read was from?

**Mr Wiersma:** This came from the November 1992 issue of Taxi News; it's on page 10. I will leave it for the clerk. I believe Mr Zahakos sold this publication four years ago. He was the publisher of this publication until four years ago.

Anyway, getting back to this construction in suburbia, this city developed in the last 160 years. At one time I was an executive buyer at Simpsons-Sears and I was in senior management at the T. Eaton Co. I've travelled all around the world, to every continent. I've decided to live in this city because I believe we have the heart and soul in this community which

is made up of a cross-section of ethnic, multicultural groups that give this city a unique distinction from anywhere else in North America. It's phenomenal.

What this MVA proposal has done is to pit the suburbs against the downtown core, the people who were here originally, and they're not all wealthy and fat-cats. I heard Mayor Rowlands say yesterday that Parkdale is going to be the worst affected area in terms of MVA for residential assessment. They're not wealthy people who live there. There are some nice homes in the High Park area, but the average home in that area where Councillor Pantalone is the councillor—and he's an NDP councillor, and he's totally against this MVA program.

Roger Hollander, who is the NDP Metro councillor for Rosedale represents a real dichotomy. You just heard the deputant from upper Rosedale, but let's look at the rest of his constituency.

## 2150

St Jamestown: When I arrived in Toronto I lived in St Jamestown from 1968 until 1974. That's a community of 15,000 people. Within a small area of approximately four or five city blocks, on average, you have 15,000 people.

From there, I moved to West Hill in Scarborough, out to the boonies by choice. I knew the taxes were high, but I knew that in advance. Caveat emptor. I knew what I was buying. I wasn't buying a pig in a poke. I knew I was buying a larger property, a four-bedroom home. I can't recall what the taxes were. I've moved from there since.

However, you cannot equate that block where I moved to in West Hill, across Highland Creek—where in the same region there were 150 homes with a population of about 400 people—versus the same geographic area downtown of 15,000 people. That's the largest concentration of population, I believe, in this country.

You cannot compare MVA, you cannot compare apples to oranges and you cannot compare lumber to cloth. It's not a simple equation like that. I believe that, having also lived out in Etobicoke at one time. Currently, I'm living in the Beach. People in the Beach are very disturbed. We have an average community. Some yuppies who have lost their status have moved from higher-income homes and they're wandering down to the Beach. It's a beautiful community with lots of parks. The homes have been slightly overvalued on average because of location.

The local councillor, who's not NDP, Paul Christie, is against this. I don't see my MPP fighting on our behalf.

**Mr Rizzo:** Who is she?

**Mr Wiersma:** The Minister of Health.

**Mr Rizzo:** She is.

**Mr Wiersma:** Is she?

**Mr Rizzo:** Yes, she is.

**Mr Wiersma:** Is she fighting in caucus?

**The Chair:** Order, please. Just continue with your presentation.

**Mr Wiersma:** All right. I'm sorry. I haven't seen it publicly.

I've spoken to Steve Ellis, the city councillor. He's not my councillor. He's very disturbed. He's the gentleman who

was carried out of the Metro council meeting. He is a lawyer. He knows how to conduct himself. I must apologize to this committee. I was very perturbed because I do like some of the NDP councillors personally.

I've talked to Mr Moscoe quite often because of our taxi industry problems. I think the communication here should be cross-party. This should not be an issue of where you people from this side of the House and the people on the other side of the House are in conflict.

What we have is a problem in Metro. I think it's a structural problem, a problem where the Metro chairman has a lot of power. He can appoint councillors to executive committees—there are committee chairs and then they have an executive committee—and he has tremendous power there and can do a tremendous amount of arm-twisting. They make all kinds of backroom deals that the average citizen is not aware of.

I'm a cynic in the political process. I understand how these things work. I did do research for the Honourable Davie Fulton back in the 1960s when I went to Carleton University. We all know how these things work.

It's unfortunate that here we have all these councillors like Derwyn Shea, who's a Progressive Conservative, Paul Christie, Christie, whom I mentioned, Dennis Fotinos—incidentally, Peter Zahakos ran against Dennis Fotinos, the Metro councillor who's a Liberal, in the last municipal election a year ago. He's against this. Bev Salmon, the only black councillor, she's a socialist and she's against this plan.

What I really want to stress is the ethnic composition of the city of Toronto, not the suburbs. The suburbs are clean. People have moved gradually from downtown. The old garment trade, the Jewish people, a lot of the elderly are living up in Forest Hill, but they were born at Spadina and College. They grew up there. Some of them I've done business with.

We look at Chinatown west and we look at Chinatown east at Broadview and Gerrard, and we look at the Portuguese community and we look at Kensington Market. We look at the Italian community—that's in the city of Toronto; this is going to be drastically affected—the old Italian community where the Portuguese are now, and Dufferin and St Clair where the Italians are currently in a very high proportion.

We have the Caribbean community up at the Vaughan and Oakwood area. We have the Korean community, which is just past Honest Ed's at Manning and Bloor, and the East Indian Community at Coxwell and Gerrard. All these communities that have developed in this multicultural community will be destroyed by MVA.

Why? Because of this example: The MVA tax will destroy their businesses and it will destroy their motivation to remain within this community. They'll scatter to other communities, and what you're doing and what Mayor Rowlands was telling us is that you're going to destroy the heart and soul of this Metropolitan community.

The reason why the suburbs developed around the city was because of the unique position this city had geographically for the last 150 years. Toronto itself did not evolve because of the suburbs. The suburbs came around the city of Toronto. If people chose to live there and pay higher taxes because of newer services, that was their choice. It wasn't the



fault of the people who originally lived here, their descendants or whoever.

I do not believe that one year ago, during the Metro council elections, one Metro councillor mentioned that he wanted a mandate for MVA. I cannot recall this. A lot of the councillors who voted in favour of MVA came in by acclamation, which actually is misleading your voters by default, isn't it? If you do not disclose what you intend to do in the following year, it's misleading by default.

In my travels, I've travelled to a lot of American cities and done business there. When I was in charge of the home improvement and paint and wall covering department at Eaton's as a national department manager, I went to a city like Cleveland where the downtown core is a ghetto. Sherwin-Williams is there and Glidden, their head offices. The suburbs are beautiful but there's no life in the downtown core. Buffalo has no life in its downtown. They're trying to revitalize it, but it was destroyed. A lot of American cities that used MVA have been destroyed in their core and—if I could just finish, one moment, Mr Chair.

**The Chair:** I just want to note that a couple of people want to ask questions and I thought you could leave a bit of time.

**Mr Wiersma:** Certainly. We're developing the Manhattan syndrome in this city, where you can look down from Queen's Park here and you can look down and see those big towers and say, "Well, Toronto is wealthy," but that's not where the people live. The people live where I said, in these ethnic communities, and that's what makes up the fabric of this city. Those people are the ones who gave you people on this side the mandate to govern. Whether you live in Toronto or you don't live here is irrelevant. Where you pay your taxes or where you don't is also irrelevant. But I believe you people have a mandate where a lot of the councillors for your party came from, the heart of the city—you have a mandate to serve them.

**Mr Rizzo:** Do you ever remember any member of Metro council suggesting that this was a provincial problem, so let's go to them and let them fix the problem? Or they dealt with the problem first and once they could get their way, then it was given to us, of course, because we have only the power for enabling legislation. Now, because the Liberals and the Conservatives want to get some political points, we are going through another public inquiry and then try to find out what's right and what's wrong.

What I can tell you is that people like Pantalone and Mike Colle, who were in favour of market value assessment four years ago, changed their position just because the percentage changed. When they thought the majority of the people were going to get decreases, they were in favour. It was never a matter of principle. Because if it was a matter of principle then, it should be a matter of principle now. If they were against it then, they should have been against it now. They were for market value then because it was politically convenient for them to get the votes in their communities, and now, because the number has changed, because the assessment was changed, it's not convenient any more, so where is the principle?

2200

**The Chair:** Is there a question then?

**Mr Rizzo:** What I am saying to you is this: It's a Metro market. It's a Metro problem. We only have enabling legislation that we are to pass. I think it's unfair to pass the buck to us and blame us for whatever is going to happen.

**Mr Wiersma:** I agree with your comment. It's unfair to pass the buck to you. I think you should pass the buck right back to Metro council. They do not have a mandate for this legislation.

What it was, and this is what disturbed me the other day, was that the parliamentary assistant said that this bylaw was passed by duly elected council. Having known the process and the problems that we've had in the taxicab industry with being ignored with our very, very serious problems with the Metropolitan Toronto Licensing Commission, going to make deputations, going through the committee process and being ignored, we have a very cynical view of the old boys' club at Metro council.

There are some new councillors who seem to be seeing the light. The city of Toronto is very dynamic, but unfortunately—there's one other aspect of this, when people change their votes about market value. You're not comparing the right time. As in everything else, timing is of the essence. We're in the worst recession, bordering on depression, since the 1930s, and what may have been apropos seven or eight years ago in boom times, when people may have been able to afford this, from businesses or their homes and the cash flow, today can't afford it. You know yourself that for businesses that are just hanging on by the fingernails, it doesn't take very much to push them over the edge.

**Mr Turnbull:** For the record, I would like to correct something. Mr Rizzo started on the fact that people changed their votes and he thought this was not appropriate, and how they'd fooled people. Well, in the last provincial election, we have on record Frances Lankin, Zanana Akande, Tony Silipo, Margery Ward, Marilyn Churley and Ziemba, who all campaigned on a platform that they were against MVA. They said that if they were elected, they would fight against it.

They stood up the other day, with the exception of Akande, and voted for it. Akande absconded from the House. She was in the House at question period 10 minutes before the vote was held. So much for that little lecture that we had about people standing up for it. They campaigned on this.

The other thing I just would like to correct is that I think Bev Salmon would be quite offended at the suggestion that she's a socialist. Put it this way: One of the first people I spoke to as to whether I should run was Bev Salmon, to get her advice.

**Mr Wiersma:** I like her personally.

**The Chair:** And the question?

**Mr Turnbull:** A question that you've raised in my mind is, isn't it ridiculous when you're running a business that in some way the business tax and the property tax you pay are based upon the value of the building, which you may not own. There's somehow an equation of a relationship of ability to pay based upon the value of the building you're in.

**Mr Wiersma:** Yes it is, and this is what I was saying: the Manhattan syndrome. What we're to do is ghettoize the city of Toronto, and we're not only going to drive the ethnic community out, but we're going to drive out small business, which is the largest single employer in this country; not the multinational corporations and not even the government.

Our percentage of transfer payments and GNP is much too high in this country. There's another aspect of this. Today Mr Mazankowski may be seeing half the light. He is reducing expenditures by \$8 billion, but this is precisely the problem we have in this country: too many levels of government, too many overlapping jurisdictions.

I studied economics at university, and one of my professors, Douglas Fisher, and Pauline Jewett, Heath Macquarrie, the old federal MPs, these people had a great social conscience. I learned a lot from them, but none of them ever advocated destroying the fabric of this country fiscally. When you have Metro government overtaxing its population and you have other government jurisdictions trying to stimulate the economy—not everyone agrees with Keynesian economics that you can spend your way out of a recession, that if you develop capital investment and capital formation, eventually it will come back.

What we have is a Metro government that just can't help itself. We've got a Dome down there which is beautiful. I can't afford to go there. I can't afford to take my kids to a ball game. It's only for the wealthy. It's for the wealthy, the people who contributed their \$5 million. It's not for the average person. We've got \$550 million sitting down there. You people can't sell it, but a lot of people in the entertainment industry and in the news media can afford to go.

We won't get much publicity for criticism like this, but I think it's a pretty sad commentary that this morning I was at the works committee at Metro council and the beach area is being polluted with all kinds of pollutants in the air. We cannot afford to treat the sewage properly—

**Mr Turnbull:** Even though they built a new Metro Hall.

**Mr Wiersma:** Exactly. My kid, my 10-year-old son, against my instructions, wound up swimming this summer at the beach. He spent two days in bed with a bacterial infection because he accidentally swallowed some water. That's a pretty sad commentary and legacy that we're going to leave behind to our children.

You people have the power in this building to have a very close look at the Metropolitan Toronto act. I believe that this mess in Toronto, the city of Toronto and Metro, should be cleaned up.

I can tell you, within my industry—as I said, 80% of the people who struggle on the streets are recent immigrants. They come from all different countries. A lot of them are afraid to speak: They're afraid of authority and they're afraid of government because they come from abusive systems; they come from the Middle East, they come from the Far East, they come from dictatorships, Central America. They're used to just being dictated to.

During the same four-year period that our licence fees increased by 300%, from 1988 through 1992 inclusive, for both drivers and owners—if you talk about drivers, it's from

\$25 to \$82; it's not very much, but if you take 11,500 drivers, that's a lot of money.

**The Chair:** I ask you to wind up. I'm afraid we're out of time.

**Mr Wiersma:** Certainly. During that same four-year period, we had 1,100 armed robberies and assaults against taxi drivers and five murders. Talk about allocating resources: Can you imagine how many million dollars it costs in police investigation to handle this problem? And not one dollar of this has been allocated to driver safety.

I think the problem we have in Metro is one of structure and accountability. The key problem is that a year ago when we had our civic election, all the publicity was given to the mayoralty race and no one was paying attention to Metro. A lot of these people got in by default; it was a flim-flam, a shell game. And as soon as they got elected, they've gone on this rampage—they want the Pan Am games now, because they fumbled the ball on the Olympics—and we have a serious problem in this city. We have ghettoization—

**The Chair:** I'm sorry. We have one more deputant and we are over the time. Could you just wrap up in a brief phrase or two.

**Mr Wiersma:** I believe that this government should—in the days of John Robarts and Bill Davis and even Mr Peterson, they felt strongly enough about the city to stop developments like the Spadina extension. They wanted to keep the unique character of this community the way it was. We don't want to have the spaghetti expressways that LA has. We want to have a community that has heart and soul. If this legislation passes, you're going to take the heart and soul out of Toronto.

**The Chair:** Thank you very much.

2210

KENDALL CAREY

**The Chair:** I now call our last witness. Let me just say, as I did the other night, that, while you are the last witness, we welcome you equally as we have others. I'm sorry for the misunderstanding that left your name off the slate, but we appreciate the fact that you have come, and we all have a copy of your submission. Would you please introduce yourself for Hansard and make your presentation.

**Mr Kendall Carey:** My name is Kendall Carey. I come here as an individual, though the material that you have in front of you is printed on our corporate stationery. Thank you for the opportunity of addressing you. I, as I've just said, run a small consulting business which advises in the areas of economic feasibility and strategic analysis. My personal discipline is economics.

With respect to Bill 94, a number of standards have traditionally been used to evaluate the merits of taxes and taxation systems, including the following: A tax should promote an intended economic impact or, at the least, have a neutral impact; a tax should be perceived to be fair or equitable; the basis of the tax should be easily measurable; other requirements are ease of collection and minimizing administration. Against these criteria, how does Bill 94 stack up, but more particularly the MVA component of it?



You've doubtless heard from others about the expected disastrous economic and social impact of MVA on the city of Toronto, so I'll limit my comments in this area by simply noting that there's always been a successful policy in Toronto to encourage residential and small business development in the inner-city core because, as planners know from the American experience, a city loses its vitality and security without this stabilizing element. MVA is in direct opposition to this policy and will in effect Manhattanize Toronto, as you've already heard, by forcing small businesses to close, driving out present residents and discouraging future ones.

I believe there are two main areas at the core of the property taxation issue, namely, equity and measurability. With respect to equity, it's interesting that the supporters of full MVA in the suburbs base their argument solely on equity, as I heard earlier this evening. They have to pay property taxes based on full value, so everyone else should too. In a sense, they're right—that is, if equity is judged solely on adherence to a particular standard. For example, if taxes were based on personal height—that is, the taller you are, the more tax you pay—it would be inequitable if I paid more tax than someone of the same height. However, that ignores the real issue, which should be, is a system based on personal height equitable to start with? We would probably all agree that it is not.

The real issue here then is, is MVA an equitable system of property taxation? The answer to this has to be a resounding no. It's an arbitrary system masquerading as being fair. It's arbitrary for the following reasons.

First, the comparative values of properties bear little relationship to income or wealth unless land prices are stable over a period of many years, which has not, of course, been the case here in Toronto. So MVA hits low-, middle- and high-income earners indiscriminately. The same is true if the criterion used is wealth.

Secondly, the value of a property bears no relation to the services used, as it's heavily weighted by the land value per square metre. People do not create more garbage or need more education because their land is more highly valued. Similarly, with respect to commercial property, the value of a lease bears no relation to the space used. For example, a large department store will typically pay a fraction per square foot of what a small retail store will pay.

When property values rise sharply, MVA is essentially a tax on capital gains which have not yet been realized and, using 1988 values, have no hope of being realized for another decade at the least.

The question with respect to measurability as it applies to the MVA is, how do you measure market value? There really is no equitable way of measuring value other than the transaction value of an unforced sale. Since most properties do not change hands in the valuation year, there is no way of knowing what that value would have been. For example, the new 1988 assessments show a difference of 35% between the values assigned to the two duplex properties on either side of where I live. These are the same size and age and have undergone about the same amount of renovation.

Fortunately, there is a straightforward solution to all of these problems, which is to base property taxes on a combination of usable space and land area. Such a system would have the following benefits: It would not result in any significant

social or economic disruption; it's readily measurable; it's as equitable in terms of income and wealth as you're likely to get using property as a yardstick; it bears some relationship to the services used, since there is at least some correlation between house size and number of occupants and/or the services used, and between the lot size and the cost of servicing a lot; and it does not involve taxing unrealized benefits.

What is the point of using an obviously flawed system like MVA when a much better system is readily available? MVA is economically and socially disruptive, inequitable, unethical and smacks of political expediency on the part of some of the Metro politicians.

In conclusion, I would suggest that you throw Bill 94 in the garbage, where it belongs, and introduce a property taxation system based partly on usable space and partly on land area. The proportions used and the rates actually charged could be set locally for different types of property, that is, residential, commercial or whatever. Such a bill would be very easy to draft and equally easy to administer and could be applied on a province-wide or selected test basis, such as Metropolitan Toronto.

It would also show that the NDP government does indeed feel a responsibility for the equitable treatment of all Ontario's citizens, thereby justifying its claim to stewardship of this particular role.

**The Chair:** Thank you very much for a very interesting brief. I have three questioners. We'll begin with Dr Frankford.

**Mr Frankford:** You talk about Manhattanization, and there's been a lot of reference in these hearings to American cities and trends there. I think of Manhattan as a lot of commercial towers, which I think we have here, but I don't think we can say that is the result of a tax policy. It's the result of land use and commercial decisions.

**Mr Carey:** I think that is partly true. What I mean by "Manhattanization" is that as far as the residents of Manhattan are concerned, you have basically two classes: You have the very wealthy, who can afford to live there—and it's not just taxation; it's also parking and everything else—and the very poor, who live in what we call affordable housing or public housing. I don't think the city of Toronto would really want its residential communities to go to those poles. What makes the city a worthwhile place to live and work in is the fact that you've got a broad cross-section of society living in it.

**Mr Frankford:** Let me go to the other end of Metro, which I happen to represent, which, I think there is agreement, is overtaxed. This is not something you referred to, but the Americanization and even the South Bronx analogy have been raised. Let me suggest that excessive taxation there can do exactly that: One would be left with a deterrent to development of land, maybe a small number of large houses and the undeveloped areas remaining undeveloped, with the apartment high-rise buildings getting to be empty and dangerous places. I think leaving in place what we have right now has the potential for a South Bronx scenario.

**Mr Carey:** Leaving what about what we have right now in place?

**Mr Frankford:** The inequities, the overtaxation of Scarborough.

**Mr Carey:** As to whether or not Scarborough is over-taxed, using the standards that are currently in place, which is MVA, as I was trying to get across, if that is your standard, then, yes, it's overtaxed. But the issue is, should that be the standard? If you have a different standard, would they then be overtaxed? My guess is that their taxes would probably go down anyway if you applied a system which is based on the size of the usable space, internal space, and the land area. I don't know for sure, but it would not necessarily result in their taxes staying the same.

**Mr Turnbull:** It may interest you to know that the Fair Tax Commission has completed a study, where it took the income tax tapes of the city of Pickering and ran an analysis of income by household against various models, one being market value and the other unit assessment. They concluded that, contrary to what some people would have you believe, it was not more inequitable.

In fact, the present system ignores the potential of significant savings which could be had by this government, which is in so much financial difficulty, to the assessment system each year. The assessment system is costing us, by the time you factor in appeals, somewhat in excess of \$200 million a year. This system could be in place quite simply and, once you've got it in place, would be virtually cost-free, because unless you add to the size of a building you wouldn't have to change the assessment, and you drive everything from there. Obviously there are lot of provincial bureaucrats who are very attached to the present system, because it's created an awful lot of employment for these people.

**Mr Carey:** Not just for them, but also for the courts and everyone who hears all of the complaints about the valuations they turn up. I'm very interested to hear that, but I can't say I'm surprised.

**Mr Turnbull:** Do you not think it passing strange that this government would hurry this legislation through prior to the submission of the final report of the Fair Tax Commission,

which, we understand from drafts which have leaked out, is fairly critical of market value and suggests that alternatives like unit assessment should be examined. We know that report is pending, but they're pushing this legislation through quickly, quickly, before the report comes out.

**Mr Carey:** I would go further than saying it's passing strange. I would say it's completely idiotic.

**Mr Ruprecht:** Mr Carey, is your new tax system, based partly on usable space and partly on land area, in place anywhere else in the world?

**Mr Carey:** Britain has a system which is along those lines. I don't know if they call it a unit value system or whatever, but they moved away from market value assessment for exactly the same reasons as Ontario is now experiencing and should also move away from it. Land values are just too volatile.

**Mr Ruprecht:** How long would it take to introduce this new assessment system? How many years?

**Mr Carey:** It wouldn't take any time at all, because there are data on file on every property that exists as to its usable space and its land area. It's all there in surveys, so it's just a matter of stuffing it all into a computer.

**Mr Ruprecht:** How soon do you suppose this could be done?

**Mr Carey:** I don't see why it should take more than three months, properly administered.

**The Chair:** Thank you very much, and that will conclude our hearings for today.

Before members leave, I would just like to note for the record that we have received a letter addressed to me, as the Chair of the committee, from the minister responding to a presentation made yesterday, and that has been passed out for the information of members. This committee stands adjourned until 9:30 tomorrow morning.

The committee adjourned at 2222.









## STANDING COMMITTEE ON SOCIAL DEVELOPMENT

- \***Chair / Président:** Beer, Charles (York North/-Nord L)
- \***Acting Chair / Présidente suppléante:** Caplan, Elinor (Oriole L)
- \***Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)
  - Drainville, Dennis (Victoria-Haliburton ND)
  - Fawcett, Joan M. (Northumberland L)
  - Martin, Tony (Sault Ste Marie ND)
  - Mathysen, Irene (Middlesex ND)
  - O'Neill, Yvonne (Ottawa-Rideau L)
- \*Owens, Stephen (Scarborough Centre ND)
- \*White, Drummond (Durham Centre ND)
  - Wilson, Gary (Kingston and The Islands/Kingston et Les Îles ND)
  - Wilson, Jim (Simcoe West/-Ouest PC)
  - Witmer, Elizabeth (Waterloo North/-Nord PC)

\*In attendance / présents

### **Substitutions present / Membres remplaçants présents:**

Caplan, Elinor (Oriole L) for Mr Beer  
Farnan, Mike (Cambridge ND) for Mr Martin  
Frankford, Robert (Scarborough East/-Est ND) for Mr Gary Wilson  
Grandmaître, Bernard (Ottawa East/-Est L) for Mrs Fawcett  
Mammoliti, George (Yorkview ND) for Mr Drainville  
Mills, Gordon (Durham East/-Est ND) for Mr Martin  
Poole, Dianne (Eglinton L) for Mrs O'Neill  
Rizzo, Tony (Oakwood ND) for Mrs Mathysen, Mr White and Mr Martin  
Ruprecht, Tony (Parkdale L) for Mrs O'Neill  
Stockwell, Chris (Etobicoke West/-Ouest PC) for Mr Jim Wilson  
Swarbrick, Anne (Scarborough West/-Ouest ND) for Mr White  
Turnbull, David (York Mills PC) for Mrs Witmer  
Wiseman, Jim (Durham West/-Ouest ND) for Mrs Mathysen

### **Also taking part / Autres participants et participantes:**

Cooke, Hon David S., Minister of Municipal Affairs  
Marland, Margaret (Mississauga South/-Sud PC)

**Clerk / Greffier:** Arnott, Douglas

### **Staff / Personnel:**

Drummond, Alison, research officer, Legislative Research Service  
Richmond, Jerry, research officer, Legislative Research Service

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Mary Wahl, president	
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